

A. 12 (A)

HIGHLY CONFIDENTIAL - J. HRASKA
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

Chapter 11

LEHMAN BROTHERS Case No. 08-13555 (JMP)
HOLDINGS, INC., et al., (Jointly Administered)

Debtors.

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* * *HIGHLY CONFIDENTIAL* * *

DEPOSITION OF JAMES HRASKA

New York, New York

August 14, 2009

Reported by:

KATHY S. KLEPFER, RMR, RPR, CRR, CLR

JOB NO. 24039

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 August 14, 2009
3 9:25 a.m.
4
5 HIGHLY CONFIDENTIAL deposition
6 of JAMES HRASKA, held at Jones Day
7 LLP, 222 East 41st Street, LLP, New
8 York, New York, before Kathy S.
9 Klepfer, a Registered Professional
10 Reporter, Registered Merit Reporter,
11 Certified Realtime Reporter, Certified
12 Livenote Reporter, and Notary Public
13 of the State of New York.
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1 HIGHLY CONFIDENTIAL - J. HRASKA
2
3 A P P E A R A N C E S: (Cont'd.)
4
5 JENNER & BLOCK, LLP
6 Attorneys for the Examiner
7 330 N. Wabash Avenue
8 Chicago, Illinois 60611-7603
9 BY: DAVID C. LAYDEN, ESQ.
10
11 HUGHES, HUBBARD & REED, LLP
12 Attorneys for the SIPA Trustee
13 One Battery Park Plaza
14 New York, New York 10004
15 BY: NEIL J. OXFORD, ESQ.
16 AMINA HASSAN, ESQ.
17
18
19 Also Present:
20 RAJESH ANKALKOTI, Alvarez & Marsal
21
22
23
24
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1 HIGHLY CONFIDENTIAL - J. HRASKA
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3 A P P E A R A N C E S:
4
5 JONES DAY, LLP
6 Attorneys for Lehman Brothers, Inc.
7 222 East 41st Street
8 New York, New York 10017-6702
9 BY: WILLIAM J. HINE, ESQ.
10 GEORGE E. SPENCER, ESQ.
11
12 BOIES, SCHILLER & FLEXNER, LLP
13 Attorneys for Barclays and the Witness
14 5301 Wisconsin Avenue, N.W.
15 Washington, D.C. 20015
16 BY: JONATHAN M. SHAW, ESQ.
17
18 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP
19 Attorneys for the Creditors Committee
20 51 Madison Avenue
21 22nd Floor
22 New York, New York 10010
23 BY: ERIC M. KAY, ESQ.
24
25

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 JAMES HRASKA, called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and testified as
5 follows:
6 EXAMINATION BY
7 MR. HINE:
8 **Q. Good morning, Mr. Hraska.**
9 A. Good morning.
10 **Q. We met just briefly before the**
11 **deposition. My name is Bill Hine. I'm from the**
12 **firm of Jones Day and we are special counsel to**
13 **Lehman Brothers Holdings, Inc., in connection**
14 **with the pending bankruptcy proceeding. And so**
15 **your deposition is being taken today pursuant to**
16 **that discovery that we're taking in that case.**
17 **There's several other counsel around**
18 **the table who will introduce themselves as they**
19 **get up to take turns questioning.**
20 **Have you ever had a deposition taken**
21 **before?**
22 A. I have not.
23 **Q. So, just by way of a little ground**
24 **rules, I'm going to ask you a bunch of**
25 **questions. You're under oath. You're going to**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **answer the questions.**
3 On occasion, your counsel will state
4 an objection or, you know, make some kind of
5 objection for the record. That doesn't relieve
6 you of the obligation to answer the question.
7 It's just him trying to either correct a portion
8 of my question or preserve an objection.
9 In that regard, throughout the day, I
10 am undoubtedly going to a misuse a word or some
11 kind of acronym or some technical term that you
12 folks use every day in your line of business
13 which I'm not as familiar with as you are,
14 obviously, so please correct me if I misuse a
15 word or I ask a question that's misleading in
16 any way or you just don't understand the
17 question because I would like to ask a clear
18 question so you can answer it.
19 Is that okay?
20 A. That's fine. Thank you.
21 MR. SHAW: Just before we begin,
22 again, I want to put on the record our
23 understanding that we will designate the
24 entire transcript highly confidential and
25 then we'll go back and redesignate.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **about in the period of September 2008.**
3 A. I was senior vice president from a
4 corporate title perspective and I managed the
5 Secured Financing Operations Group.
6 Q. And can you just describe for me what
7 that means? What were your responsibilities and
8 duties in that position?
9 A. The Financing Operations, also known
10 as a financing middle office, is a group that
11 sits between a bunch of groups, but primarily
12 trading and sales individuals and clearance and
13 settlements folks, and we do tasks such as, you
14 know, monitoring positions, reconciling
15 differences, dealing with, you know, customer,
16 you know, concerns, bringing the attention of
17 customers' concerns to either sales staff or
18 trading staff.
19 We also deal with legal and compliance
20 and regulatory on certain matters. If there
21 are, you know, questions or queries as to the
22 nature of the transactions, if somebody needs
23 some technical expertise on, we usually provide
24 that expertise as to the structure of the
25 transactions and things like that.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 MR. HINE: Yes. That's true. That's
3 fine.
4 Q. One other thing before we get started,
5 Mr. Hraska. I imagine you're aware that you've
6 been designated as what's called a 30(b)(6)
7 witness by your employer, by Barclays, as to
8 particular topics, and they relate to Schedules
9 A and B which we'll discuss later. So when we
10 get to that portion of the deposition, I'll let
11 you know and we'll treat that portion as a
12 30(b)(6) deposition, but I'll let you know as we
13 get there.
14 MR. SHAW: Just so we're, again,
15 clear, Bill, as I think you know, he is one
16 of several witnesses who's been designated
17 as partially responsive to those particular
18 topics.
19 MR. HINE: I understand.
20 Q. So, unless you have any questions, we
21 can get started.
22 A. No, I'm fine.
23 Q. Okay. Can we just review briefly your
24 employment history with Lehman? What was the
25 last position you held at Lehman? I'm talking

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 Q. And who did you report to in that
3 position?
4 A. At Lehman Brothers at the time, I was
5 reporting to Monty Forrest.
6 Q. Did you report directly to anyone
7 else?
8 A. No, under that structure I was a
9 direct report of Monty Forrest.
10 Q. And who were your direct reports?
11 A. My direct reports now or at the time?
12 Q. At the time in September of 2008.
13 A. Okay, my direct reports in the U.S.
14 were Nancy Denig, D-E-N-I-G, and Paul Lindner.
15 Q. Prior to this position -- or, let me
16 ask you another question. How long were you in
17 this senior vice president position?
18 A. Approximately five to six years. I
19 don't remember the exact date, actually. I
20 don't remember the exact date when I got my
21 senior vice presidency.
22 Q. Okay. How long had you been in the
23 position of managing the secured financing?
24 A. It began in 2001, but it began in a
25 much smaller scale. I only managed a portion of

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 it and over time it grew into a larger and
3 larger responsibility. At the point of
4 September, I was managing both equity and fixed
5 income. I was managing that globally as well.
6 **Q. Okay. When did you join Lehman?**
7 A. August of '93.
8 **Q. So you held this management position**
9 **since 2001, you said?**
10 A. That particular one related to
11 Financing Operations since 2001, yes.
12 **Q. What did you do before that at Lehman?**
13 A. I did a host of different roles, all
14 in derivatives-based. I worked in Derivative
15 Settlements, I worked in Derivatives Middle
16 Office, and I also worked in a Structured
17 Products and Reinsurance Middle Office as well.
18 **Q. Okay:**
19 A. And over the period of time I also
20 held management positions in those roles as
21 well.
22 **Q. When you say middle office, could you**
23 **just tell me what that means?**
24 A. Middle office is similar to the way I
25 described it before for financing, only it was

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. I mean, I guess I considered myself to
3 be working for Barclays in the week after the
4 declaration of bankruptcy.
5 **Q. Okay. We're going to be talking about**
6 **these weeks for the whole deposition, so the**
7 **week of September 15 is the week you're**
8 **referring to as the week where they declared**
9 **bankruptcy; is that right?**
10 A. The week is when -- September 15 is
11 when Lehman declared bankruptcy. I wasn't
12 completely confident that I was a Barclays
13 employee until I guess the week of the 22nd,
14 because I was still working, you know, with LBI
15 in the U.S. broker-dealer, so I wasn't actually
16 sure of my status at that point, to be
17 completely honest.
18 **Q. I understand. Okay. So that**
19 **September 22 was a Monday, correct?**
20 A. I believe so, yeah.
21 **Q. Had you had any discussions with folks**
22 **at Barclays prior to September 22 about the**
23 **possibility of you going to work for Barclays?**
24 A. No.
25 **Q. When do you recall first speaking to**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 for derivative-related products. So same types
3 of trader inquiries, sales inquiries, customer
4 resolutions to problems, things like that.
5 **Q. Did there come a point when you left**
6 **Lehman and moved to Barclays?**
7 A. Yeah, I mean after the -- after the
8 declaration of bankruptcy, Barclays extended an
9 offer of employment to me, which I accepted.
10 **Q. Okay. And when did you start working**
11 **for Barclays, do you recall the date?**
12 A. I don't know, I can't for certain be
13 given the official date. When I started, I was
14 extended an employment contract, which I signed,
15 and I believe I signed that sometime in October,
16 but I don't know what the specific date that
17 Barclays considers me an official employee
18 versus when I stopped my Lehman employment.
19 Like I was never out of work for a
20 period of time. I mean, I continued to show up
21 every day. I'm just not sure what point in time
22 they considered me officially a Barclays
23 employee.
24 **Q. I understand. When did you consider**
25 **yourself to be working for Barclays?**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **anyone at Barclays about you becoming a Barclays**
3 **employee?**
4 A. I would say it was in that week of the
5 22nd.
6 **Q. Okay. Had you spoken to any folks at**
7 **Lehman prior to September 22 about the**
8 **possibility of you moving over and becoming a**
9 **Barclays employee?**
10 A. Well, wait. Could I just go back to
11 that previous question?
12 **Q. Sure.**
13 A. When I spoke on that week of September
14 22, like I had never had any employment
15 conversations with a legacy Barclays employee.
16 All my conversations were with legacy Lehman
17 employees, so either my manager, which was Monty
18 Forrest, or Alastair Blackwell.
19 So like nobody from like Barclays HR
20 had approached me or had offered me any
21 conversations prior to my conversations with my
22 legacy Lehman managers. I don't know if that's
23 important or not.
24 **Q. No, I just want to make sure we're all**
25 **on the same page here.**

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HIGHLY CONFIDENTIAL - J. HRASKA

So when you say legacy Lehman managers, you're talking about people who were previously employed with Lehman who may now be employed with Barclays?

A. Yes.

Q. Okay. So am I correct to say that, prior to September 22, you had had no conversations with anyone who was -- who had always been a Barclays employee as to your possibility of you going over working for Barclays; is that right?

A. That's correct.

Q. So had you had conversations with legacy Lehman employees or people who were employed with Lehman at the time prior to September 22 about the possibility of you going to work for Barclays?

A. No.

Q. Okay. Do you recall any conversations with Mr. Forrest or anyone in your chain of command about the possibility of you going to work for Barclays?

MR. SHAW: Asked and answered.

A. No.

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HIGHLY CONFIDENTIAL - J. HRASKA

Q. Okay. Before I forget, what is your current position at Barclays?

A. I am in a very similar role. Corporate title-wise I'm a director, which is equivalent to SVP. I manage, again, Secured Financing Operations for both equities globally and fixed income in North America.

Q. Is it fair to say your role is -- your duties and responsibilities are relatively the same as you had when you were at Lehman?

A. Responsibilities are reasonably the same, not quite as extensive as they were at Lehman from a global perspective.

Q. Who do you report directly to now?

A. I have a dual reporting line. From a product perspective, I still report to Monty Forrest. And Barclays is structured a little bit different, so from a regional perspective, I report to Alastair Blackwell.

Q. And who are your direct reports?

A. My direct reports now are still Nancy Denig, Paul Lindner, and a gentleman by the name of Henry Duarte, D-U-A-R-T-E.

Q. Okay. Anyone else?

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A. No. Not direct reports, no. (Exhibit 136B, a document bearing Bates Nos. BCI-EX-00077317 through 77319, marked for identification, as of this date.)

Q. Mr. Hraska, I apologize, I'm not trying to be intrusive here, but I need to ask you some questions about your compensation.

A. That's fine.

Q. So I'm handing you a copy of Exhibit 136B, which appears to be an agreement between yourself and Barclays dated September 22, 2008, and my question to you is, have you ever seen this document before?

MR. SHAW: Take a minute to look at as much of it as you need to.

A. Yes, I've seen this before.

Q. What is this document?

A. This was the document offering me employment at Barclays.

Q. Okay. And is this your current employment contract with Barclays?

A. It is, yes.

Q. Okay. Did you sign it on September 22?

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A. I don't believe so.

No, on October 2, when it's dated.

Q. Okay. Any understanding of why it's dated September 22, but you didn't sign it until October 2?

MR. SHAW: Foundation.

A. I have no idea. I mean, I'm -- I signed it September 22nd because that's when I decided to agree to the terms.

Q. Okay. Was there any negotiations between you and Barclays as to the compensation part of your employment?

A. No.

Q. Okay. How did it take place? Did they just give you a copy of this letter and ask you to sign it?

A. The letter was sent to me via interoffice mail.

Q. Uh-huh.

A. It was preceded by a phone call which said, you know, you're a key employee that we would like to retain, we're going to be sending you a letter for, you know, an offer to join Barclays. We would like you to review it and,

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 you know, if you would like to come work for us,
3 you know, accept it, which is, at the time, I
4 was happy to be offered a job, so -- with what
5 was going on in the market, so I took it.

6 Q. Who was that phone call from?

7 A. Ian Lowitt.

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12 Q. Okay. Stepping aside from your own
13 personal compensation now, throughout the period
14 of September -- the week of September 15 to the
15 22, did you have any understanding of the
16 compensation-related provisions embodied in the
17 transaction that was taking place between
18 Barclays and Lehman at the time?

19 A. No, I did not.

20 Q. Let me just take a step back and I
21 would like to get a little sense of your
22 involvement in that transaction during that
23 week, if you don't mind. I'd like to just kind
24 of go day-by-day for a minute here just to
25 understand what you were involved in during that

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 week.
3 **On September 15, 2008, when Lehman**
4 **Brothers Holdings declared bankruptcy, did you**
5 **have any involvement in the preparation of the**
6 **filing or the preparation of any kind of**
7 **bankruptcy proceedings?**
8 A. No.
9 **Q. Did you know that they were going to**
10 **file bankruptcy before that Monday?**
11 A. No.
12 **Q. Did it come as a surprise to you?**
13 A. It was a -- it was a surprise to me,
14 yeah. The right answer is yes.
15 **Q. The weekend prior to the bankruptcy**
16 **filing -- and I'm talking about September 13th**
17 **and 14th or so?**
18 A. Uh-huh.
19 **Q. I understand there was some**
20 **discussions between Barclays and Lehman, and my**
21 **question is, did you have any involvement in**
22 **those discussions?**
23 A. No.
24 **Q. Did you have any knowledge that such**
25 **discussions were taking place?**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Q. Okay. Because you asked for the**
3 **clarification, I just want to know, did you have**
4 **some communications that your -- well, let me**
5 **scratch that.**
6 **Did you provide information to anyone**
7 **during that weekend as to the value of**
8 **securities in Lehman's books?**
9 A. So let me clarify that. I provided
10 information as to the location and availability
11 of securities, not the value of securities.
12 **Q. Okay. What information did you**
13 **provide?**
14 A. I provided lists of securities that
15 would be eligible to place into financing
16 transactions.
17 **Q. And who did you provide that to?**
18 A. Well, I was asked for it by my
19 manager, which is Monty Forrest, but I believe
20 that information was disseminated to multiple
21 people after I provided it, so ...
22 **Q. You don't really know where it went**
23 **after you gave it to Monty?**
24 A. I know that it was sent to Alastair.
25 I know that it was sent to Paolo Tonucci. I

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. Yes.
3 **Q. What had you heard about them?**
4 A. That there were discussions taking
5 place and they were at the levels of Bart
6 McDade, Dick Fuld, those types of individuals.
7 **Q. Fair to say you were not involved in**
8 **those negotiations?**
9 A. Yes.
10 **Q. Were you called at any time during**
11 **that weekend to provide information to the**
12 **people who were involved in the negotiations?**
13 A. Could I ask you to clarify? Regarding
14 information regarding the negotiations or
15 information about other topics?
16 **Q. Well, I'm not talking about**
17 **run-in-the-mill information that you would**
18 **normally be dealing with, but did anyone contact**
19 **you seeking information that you perceived to be**
20 **involved in the negotiations?**
21 A. No.
22 **Q. Did you have any conversations with**
23 **Mr. McDade or senior officers during that**
24 **weekend?**
25 A. No.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 don't know beyond that where it was subsequently
3 forwarded to.
4 **Q. And just so I understand what type of**
5 **information, this is information about the types**
6 **of securities that would be eligible to be**
7 **pledged as collateral for a financing; is that**
8 **right?**
9 A. Yes, that's correct.
10 **Q. Okay. And do you know what purpose**
11 **that financing was to serve?**
12 A. Could you clarify what you mean by
13 that?
14 **Q. Do you know what type of financing**
15 **they were talking about?**
16 A. They were talking about like secured
17 financing transactions, which are normal course
18 for what I support, so ...
19 **Q. I guess my question is, you're aware**
20 **that during the following week the Fed provided**
21 **some financing to Lehman, correct?**
22 A. Right.
23 **Q. Were the lists that you were providing**
24 **to be used towards that type of financing, do**
25 **you think?**

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MR. SHAW: If you know.

A. It was used -- it was to be used for anybody who would provide us secured financing. In the end, it ended up being the Fed, but --

Q. Did you have any understanding during that weekend that there were discussions between Lehman and the Fed about providing financing?

A. No, not specifically.

Q. Okay. Let's just continue through the week briefly and then we'll come back to different topics.

On the Monday of the 15th, were you involved in any negotiations between Barclays concerning the sale transaction that ultimately took place between Barclays and Lehman?

A. No.

Q. Were you asked to provide any information to those who were involved in those negotiations?

A. No.

Q. Were you involved in negotiations with the Fed about the Fed financing that was provided during that week?

A. No.

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Q. Were you asked to provide information in support of that financing?

A. No.

Q. Okay. What did you do ultimately on that Monday, if you recall?

A. A year ago?

Q. Well, it's a big day. It's an eventful day in Lehman's history, correct?

A. It is.

Q. What do you recall doing the Monday when Lehman Holdings filed for bankruptcy?

A. Well, I mean, I guess the first thing to do was, you know, talk to my manager and ask him, you know, kind of what our next steps were. Do we carry on as normal, do we do something different, or do we wait for further instructions or, you know, basically what do we do.

Q. Okay.

A. He advised me that we were going to carry on as normal. We were, at the time, we were still trying to preserve the liquidity and functioning of the broker-dealer, and as far as financing transactions, just to clarify, you

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know, our involvement was to find collateral and those -- that financing by the Fed that you referred to was -- those programs are open to every broker-dealer, and every broker-dealer at the time -- the market was in a very, you know, as you know, very turbulent situation -- every broker-dealer was taking advantage of those programs so it was normal course for us to figure out what assets we could finance with the Fed that potentially wouldn't be financeable with other counterparties.

And that was our focus that week, was to try to locate all the collateral that we had available to finance that the Fed would deem acceptable in their programs.

Q. Okay. And so were you involved in the selection of the securities that were ultimately pledged to the Fed?

A. I wasn't involved in the selection of what was pledged to the Fed. I was involved in identifying assets which were not encumbered and could be used as collateral to be pledged to the Fed.

Q. Okay. And who actually selects which

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HIGHLY CONFIDENTIAL - J. HRASKA
collateral was pledged to the Fed?

A. The Fed programs are, at least the ones we used for financing, were tri-party transactions.

Q. Right.

A. And the actual selection criteria itself was done by the tri-party agent.

Q. Who was that?

A. JPChase. JPMorgan.

Q. And can you describe for me your role, if any, in supporting the financing that was provided by the Fed?

A. My role was to communicate between the -- between the trading desks and the tri-party operations groups and just coordinate, you know, the availability of collateral and the booking of the transactions which would ultimately represent that financing.

Q. Okay.

A. So the trading desk basically books the transaction onto a system. My group's role is to ensure that that booking makes it all the way through the front-end booking system all the way through to the system that is the books and

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 records and what transmits that transaction to
3 our tri-party agent and that there's no
4 discrepancies, everything matches with what the
5 traders know to have raised from a financing
6 perspective.

7 And then we coordinate with the
8 tri-party operations folks to make sure that
9 there were no mechanical difficulties in the
10 allocation that's performed by the tri-party
11 agent, that there wasn't any shortfalls of
12 collateral and things of that nature, and then
13 report back to the trading desk.

14 **Q. Do you have any involvement in how**
15 **that collateral is valued?**

16 A. No.

17 **Q. Who does that?**

18 A. The tri-party agent.

19 **Q. And that would be Chase?**

20 A. JPChase, yes.

21 **Q. Does Lehman --**

22 A. Going forward, should we just refer to
23 it as Chase? Because I'm not sure JPMorgan
24 Chase, JPChase.

25 **Q. That's fine. We'll use Chase as a**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **shorthand.**

3 A. That's fine.

4 **Q. So, to your knowledge, with respect to**
5 **that Fed financing of the week of September 15,**
6 **Chase placed a value on the collateral that was**
7 **used?**

8 A. That's correct.

9 **Q. Did Lehman place its own value on that**
10 **collateral?**

11 MR. SHAW: Objection. Vague.

12 A. I don't know that -- Lehman, as a
13 normal broker-dealer would have their own marks
14 for collateral on their books and records.

15 **Q. Right.**

16 A. The final determinant of that
17 collateral with respect to the financing
18 transaction would be the responsibility of the
19 tri-party agent.

20 **Q. Okay. And do you know if there's**
21 **any -- were there any differences in the**
22 **valuations that Lehman would -- placed on that**
23 **collateral versus what Chase placed on that**
24 **collateral during that week?**

25 A. I don't know.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**

2 **Q. Okay. Would you be involved in that**
3 **normally?**

4 A. No.

5 **Q. Okay. Before we go further on in that**
6 **week, do you have any understanding of the**
7 **actual sale transaction, the terms of the sale**
8 **transaction between Lehman and Barclays?**

9 A. No, I don't.

10 **Q. Did you ever have a chance to look at**
11 **what's known as the Asset Purchase Agreement?**

12 A. No, I didn't.

13 **Q. Did you ever have any understanding**
14 **about the terms of the transaction whereby**
15 **Lehman assets were going to be transferred to**
16 **Chase -- I mean to Barclays?**

17 MR. SHAW: Objection to form.

18 A. At what point in time are you
19 referring to?

20 **Q. Okay. Let's break it down. Early in**
21 **the week, Monday, Tuesday?**

22 A. Of the week of the 15th?

23 **Q. Of the week of the 15th.**

24 **Did you have any understanding of the**
25 **terms of the deal between Lehman and Barclays?**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**

2 A. I did not.

3 **Q. Did you have any understanding that**
4 **the Asset Purchase Agreement called for the sale**
5 **of \$70 billion in long positions to Barclays?**

6 A. I did not.

7 **Q. Had you ever heard that phrase used?**

8 A. No. That number is a completely new
9 number to anything I've had heard.

10 **Q. You never heard that number during**
11 **that week?**

12 A. During -- to this day.

13 **Q. Okay. I'm just trying to get a sense**
14 **of what you were involved in.**

15 A. That's fine.

16 **Q. Had you ever heard during that week**
17 **that the transaction involved the transfer of**
18 **\$69 billion in short positions to Barclays?**

19 A. No.

20 **Q. Okay. Going further on in the week,**
21 **did there come a time when you learned some of**
22 **the terms of the transaction between Lehman and**
23 **Barclays?**

24 A. During that week, no.

25 **Q. After moving to Barclays, have you**

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2 **learned some of the terms of the transaction**
3 **between Lehman and Barclays?**
4 A. At a much later time, yes.
5 **Q. What have you learned about it?**
6 A. I learned that Barclays has purchased
7 the unencumbered assets -- the way I understand
8 it is they purchased the unencumbered assets of
9 Lehman Brothers' clearance boxes.
10 **Q. Anything else that Barclays purchased?**
11 A. The building at 745.
12 **Q. Anything else?**
13 A. No.
14 **Q. When you say "unencumbered assets,"**
15 **what do you mean by that?**
16 A. An unencumbered asset, from my
17 perspective, as an operations professional, is
18 an asset which does not have a lien on it by any
19 other party, primarily customers.
20 **Q. And when you say "in the clearance**
21 **boxes," what are you referring to?**
22 A. Clearance boxes are -- it's a loose
23 term that can be defined in two ways: A
24 clearance box can be a location at a depository
25 institution, such as DTC, or it can be a

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2 **Q. Yes.**
3 A. As of today, my understanding is that
4 the value of unencumbered collateral that was
5 transferred was approximately 1.4 billion.
6 **Q. Have you heard the term "Schedule B"?**
7 A. I have, yes.
8 **Q. And what is your understanding of what**
9 **that is?**
10 A. Schedule B, to my understanding, is
11 the schedule of assets which were part of the
12 transaction between Barclays and Lehman
13 Brothers.
14 **Q. And is the 1.4 billion that you just**
15 **mentioned, is that the approximate amount of the**
16 **assets on Schedule B?**
17 A. The 1.4 -- the short answer is I don't
18 know.
19 **Q. Okay.**
20 A. You had asked me what had been
21 transferred to date. So what had been
22 transferred is approximately 1.4.
23 **Q. Okay. Are you drawing a distinction**
24 **between transferred and some other -- other --**
25 A. Originally, yes, because you

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2 clearance or -- a location at a clearing bank,
3 such as a JPChase or Bank of New York, or it can
4 refer to the record of your having those
5 accounts on your stock records. So basically
6 your stock record represents your position of
7 those locations at those outside agents. So
8 it's used intermittently, depending upon the use
9 or the person using it.
10 **Q. And what is your understanding of the**
11 **amount or the value of the assets that were**
12 **transferred from Lehman to Barclays?**
13 MR. SHAW: Objection. Just for
14 clarification, do you mean as unencumbered
15 assets or overall?
16 MR. HINE: Whatever assets he thinks.
17 **Q. Let me clarify that. Let's take out**
18 **the real estate.**
19 A. Okay.
20 **Q. What is your understanding of the**
21 **value of the assets other than the real estate**
22 **that were transferred from Lehman to Barclays?**
23 A. At what point in time?
24 **Q. Now.**
25 A. As of today?

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 originally asked what had been transferred.
3 **Q. Right.**
4 A. And based on, you know, transactions,
5 1.4 or so billion had been transferred.
6 **Q. Right.**
7 A. There may have been a different total
8 value on Schedule B. I can't be certain what
9 that value is. There's been people who have
10 talked about a number.
11 **Q. Okay.**
12 A. So I have a general sense, but I
13 wouldn't testify that I knew a hundred percent
14 what that value of Schedule B was.
15 **Q. Do you have any knowledge of what has**
16 **been called Schedule A with respect to that**
17 **transaction?**
18 A. Schedule A, as I understood it, was
19 related to a transaction prior to that
20 transaction which was the financing between
21 Lehman Brothers and Barclays.
22 **Q. Okay. And do you have any --**
23 A. I'm not sure, is it all part of the
24 same transaction? I don't know that it's part.
25 I view those as distinctly different

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2 transactions, Schedule A and what became
3 Schedule B, but...

4 Q. Okay. Well, I just want to understand
5 what your understanding is.

6 A. Okay.

7 Q. So let me just try to understand. You
8 mentioned a separate transaction between
9 Barclays and Lehman that eventually led to a
10 collection of securities that has been known as
11 Schedule A; is that right?

12 A. That's correct.

13 Q. Okay. And what was the transaction
14 that you understood took place that led to
15 Schedule A?

16 A. There was a secured financing
17 transaction, a repo transaction -- from Lehman's
18 perspective, it was a repo transaction with
19 Barclays which took place on the 18th of
20 September, and the assets related to that
21 transaction became Schedule A.

22 Q. Okay. And is it all right -- was that
23 a tri-party repo?

24 A. That transaction was a -- was a repo.
25 There were -- it was sort of a unique

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2 transaction. It was one that took on elements
3 of tri-party as well as a bilateral contract,
4 but it was governed under the documents of a
5 tri-party repo, yes.

6 Q. And who is the agent with respect to
7 that transaction?

8 A. There was -- well, that's what made it
9 unique. There were two tri-party agents
10 involved. There was Chase, who was a tri-party
11 agent, who held our collateral with the Fed that
12 we had pledged to the Federal Reserve, and then,
13 in effecting the transaction, according to the
14 tri-party terms, there was Bank of New York, who
15 was the agent for Barclays.

16 Q. I see reference in some of the
17 documents to the BONY tri-party?

18 A. Uh-huh.

19 Q. Is that the tri-party we're -- is that
20 the transaction we're talking about?

21 A. Yes, that's correct. We moved the
22 assets from JPChase, who was our tri-party
23 agent, to Bank of New York, who was, as I
24 mentioned, Barclays' agent.

25 Q. Just so I understand the sequence,

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2 tell me if I'm wrong here. There was a
3 financing with the Fed in which there was a
4 certain amount of collateral posted by Lehman,
5 correct?

6 A. That's correct.

7 Q. At some point in time, that collateral
8 gets transferred to Chase? Withdrawn. Let me
9 start again.

10 At some point in time that collateral
11 gets transferred to Bank of New York in
12 connection with this transaction you have just
13 described?

14 A. That's correct.

15 Q. Okay. And were you involved in that
16 transfer of collateral from the Fed program to
17 Bank of New York?

18 A. I was, yes.

19 Q. You were, okay. And did all the
20 collateral make it from the Fed program to the
21 Bank of New York?

22 A. It did not.

23 Q. And do you know -- do you recall how
24 much made it and how much didn't?

25 A. I can't give you the figure of exactly

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2 how much that was in the Fed program made it to
3 Barclays of the original collateral because
4 there were difficulties in the collateral all
5 moving over to Barclays.

6 I can tell you how much collateral,
7 approximately, made it to Barclays, but it
8 wouldn't necessarily be all of the same
9 collateral that was with the Fed.

10 Q. Okay. Did you mean to say Bank of New
11 York or Barclays?

12 A. Well, it was to Barclays -- I'm sorry,
13 to the Bank of New York for the benefit of
14 Barclays.

15 Q. Okay. So how much made it to the Bank
16 of New York in connection with that transfer
17 from the Fed program?

18 A. On the night of the 18th,
19 approximately \$42 billion worth of collateral.

20 Q. And that figure is based on a
21 valuation of the collateral provided by who?

22 A. By Bank of New York.

23 Q. So \$42 billion is how Bank of New York
24 valued the amount of money -- the amount of
25 collateral that was transferred from the Fed

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program to it on the 18th?

A. From the Fed -- that was the way that they valued the collateral that was transferred to them, not necessarily just from the Fed, because as I mentioned earlier, not all from the Fed program, because there was collateral which was not part of the Fed program which was transferred to Barclays as well.

Q. Okay. Can you explain to me generally -- I think I understand what you said, but where did the rest of the collateral come from that made it to Bank of New York?

A. It was other unencumbered collateral in Lehman's clearance boxes.

Q. Okay. Are you referring to what I've seen referred to as an O74 box?

A. It was -- that was one of the sources of collateral, yes.

Q. Where else did it come from?

A. It came from another DTC location, which was 636, and it also came from our government clearance location. Chase was also a government clearance custodian, so from our government clearance box.

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Q. Does that have a number?

A. It does, but it has an acronym number that I'm not familiar with off the top of my head.

Q. Okay. So were you involved -- let me just -- I want to get a sense of your involvement now. You were involved in the transfer of collateral from the Fed program to Bank of New York, and were you then involved in the efforts to unwind that September 18 repo arrangement?

A. Unwind from the perspective of a deal negotiation or unwind from the perspective of the mechanics of --

Q. I'm trying to get a sense of what your involvement was. What did you do, after the collateral made it to Bank of New York, what was your role in connection with getting that collateral eventually to Barclays?

A. We didn't have any more involvement with getting that collateral to Barclays. Once Bank of New York took possession of it --

Q. Uh-huh.

A. -- Bank of New York got the collateral

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to Barclays.

Q. Okay. Did you have any role in preparing what has been called Schedule A with respect to that collateral?

A. I did not prepare Schedule A. What I -- what I did provide is I provided information which reflected the assets that Lehman knew to have transferred to Barclays in respect to that transaction, or to Bank of New York for the benefit of Barclays.

Q. Okay. Well, from September 18 through that weekend, I think I've seen in some documents some efforts to find additional assets that were eventually going to be transferred to Barclays; is that correct?

A. That is correct.

Q. And were you involved in that effort to locate additional assets that were going to be transferred to Barclays?

A. I was, yes.

Q. What did you do in connection with that?

A. I pretty much performed the same role. I looked across the stock record for assets that

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didn't have liens on them by customers, primarily.

Q. Okay. How many assets were located in that effort?

A. I don't know a specific number. I know there were -- there were significant number of individual securities which were located.

Q. Okay. Was that securities that came out of the O74 box and 636 box?

A. Those were securities that, yes, out of O74 and 636, yes.

Q. Previously you had said there were \$42 billion transferred to Bank of New York. Did that include assets from the O74 and 636 box?

A. On the night of the 18th?

Q. Yes.

A. Yes, those assets were sourced from those two boxes as well, yes.

Q. Okay. And then were there -- is it correct to say there were additional assets found over the weekend in those two boxes that were also later sent to Barclays?

A. At a later date, yes, there were assets from those two boxes that were sent.

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2 Q. So when you add up all these assets
3 that were eventually made their way to Barclays,
4 do you have a number that would reflect the
5 value of those assets?

6 A. I don't know what the value of those
7 assets are today. I know that there was a value
8 assigned to the assets on the night of the 18th
9 for what made it, which were -- what was \$42
10 billion. My approximate evaluation of what was
11 subsequently transferred was about 1.4 billion
12 of physically moving from Lehman to Barclays.

13 So those are the two figures that I'm
14 reasonably comfortable with. And the market
15 valuation of those things has been changing over
16 time, being that it's a year later and things
17 like that.

18 Q. I just want to get a -- just so I
19 understand your perspective on this, from your
20 perspective, there was \$42 billion moved to Bank
21 of New York which eventually makes its way to
22 Barclays, correct?

23 A. That's correct.

24 Q. And there's a separate amount of 1.4
25 billion which is gathered sometime late in the

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2 week and that eventually makes it to Barclays as
3 well, correct?

4 A. That's correct.

5 Q. And is the 1.4 billion what's called
6 Schedule B?

7 A. The 1.4 --

8 MR. SHAW: Objection. Asked and
9 answered. Mischaracterizes prior testimony.

10 MR. HINE: I didn't say anything about
11 his prior testimony.

12 Q. I'm just trying to figure out, do you
13 consider the 1.4 billion the assets that are on
14 Schedule B?

15 A. I have subsequently learned that the
16 1.4 billion are assets that are on Schedule B,
17 yes.

18 Q. And were you involved in preparing
19 Schedule B?

20 A. I was not involved in preparing the
21 official Schedule B. I provided assets which
22 were used as the securities that would be later
23 selected and placed on Schedule B, but I didn't
24 prepare the official Schedule B.

25 Q. Who selected the assets ultimately

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2 that would become part of Schedule B?

3 A. I provided that information through my
4 manager at the time. I don't recall whether I
5 had sent it to Monty or to Alastair, but
6 nonetheless, they forwarded it to Paolo Tonucci
7 and I believe Paolo sort of crystallized the
8 official Schedule B.

9 Q. Is it fair to say over that weekend
10 your role was to just find unencumbered assets
11 that they could possibly decide what to do with?

12 A. That's correct.

13 Q. Okay. Did you have an understanding
14 of why you were doing that?

15 A. No.

16 Q. Did anyone tell you that there was any
17 kind of shortfalls in what Barclays was
18 expecting to receive at the end of that week?

19 A. My understanding at the time was that
20 I was still trying to complete the repo
21 transaction, and part of that repo transaction
22 was we had placed cash as well as an asset to
23 Barclays, and, you know, my understanding at the
24 time was that I was looking to, in addition
25 to -- I was looking for assets that would be

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2 able to be sent to Barclays for the purposes of
3 also substituting that cash.

4 Q. When you say the repo transaction, are
5 you talking about the September 18 transaction
6 that we previously discussed?

7 A. Involving the Federal Reserve, yes.

8 Q. I think I just misunderstood you. The
9 September 18 transaction was between Barclays,
10 Lehman and BONY, right?

11 A. It was Barclays, Lehman and BONY, but
12 it was -- well, yes, it was Lehman. It was
13 basically like I guess a transaction where I
14 guess the collateral that Lehman had on finance
15 with the Fed was being -- instead now being
16 financed with Barclays and Barclays was then I
17 guess going to finance that transaction with the
18 Fed. So that's why I referenced the Fed.

19 Q. Okay. When you said you were
20 concerned with the repo at that time, what were
21 you doing with respect to the repo? Again, I'm
22 talking Friday of that week.

23 A. Friday of that week, I -- it was my
24 understanding that we were looking to substitute
25 the cash that we had placed on deposit for the

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2 benefit of Barclays with assets as opposed to
3 leaving cash, because it's not efficient from a
4 lending transaction to collateralize a cash loan
5 with cash. So we were looking to find available
6 assets which were suitable under the repo
7 agreement to substitute.
8 **Q. How much cash are we talking about?**
9 A. On the night of the 18th, Lehman
10 Brothers placed \$7 billion on deposit for the
11 benefit of Barclays.
12 **Q. Just so I understand it, in layman's**
13 **terms -- well, before I ask that, let me -- was**
14 **that cash part of the \$42 billion that you**
15 **mentioned?**
16 A. It was not. 42 billion was the value
17 of the assets, physical securities, that had
18 made it to Bank of New York for the benefit of
19 Barclays.
20 **Q. And so there was \$7 billion in cash on**
21 **top of that?**
22 A. Yes.
23 **Q. And so am I correct to say you were**
24 **trying to locate other assets that could be**
25 **transferred to Barclays so Lehman could keep the**

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2 A. The morning of the 19th, Chase had
3 effectively shut down our clearing accounts and
4 stopped having communication with anything other
5 than I think some very senior folks in Lehman
6 Brothers.
7 **Q. And why did they do that?**
8 MR. SHAW: Objection. Foundation.
9 A. I don't know particularly why they do
10 that. I mean, there was, you know, there was
11 some speculation as to why they did that because
12 of the status of our situation from a credit
13 perspective and things like that, but I don't
14 know if there was a particular trigger that
15 caused them to do that.
16 **Q. Did you have any conversation with**
17 **folks at Chase about this?**
18 A. On the morning of the 19th, no.
19 **Q. At any time?**
20 A. I mean, I had conversations with folks
21 at Chase all through the night on the 18th,
22 actually, technically, I guess into the morning
23 of the 19th while we were trying to finalize the
24 transaction. And after the morning of the 19th,
25 I guess the very early morning, like in the 1, 2

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2 **cash portion?**
3 A. So, yes, Lehman could get a return of
4 the cash in lieu of assets. So a substitution
5 of one asset for another.
6 **Q. And were you able to come up with any**
7 **assets to do that?**
8 A. Yes, I was. On Friday.
9 **Q. How much?**
10 A. Approximately a billion, just a little
11 over a billion. Something like a billion-34,
12 -35, something along those lines.
13 **Q. Okay. And did those assets in fact**
14 **get substituted in and make their way to**
15 **Barclays?**
16 A. Well, they made their way into
17 Barclays. My expectation of a return of the
18 cash never occurred.
19 **Q. Why is that?**
20 A. Well, with the mechanics and
21 everything that happened with the relationship
22 with Chase that day, Chase didn't return any of
23 the cash at that point.
24 **Q. Can you explain to me the problems you**
25 **had with the relationship with Chase that day?**

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2 o'clock range, that was the last conversation I
3 had with anybody at Chase.
4 **Q. What was that about?**
5 A. That was primarily about --
6 The last conversation or the last
7 series of conversations?
8 **Q. Last series of conversations?**
9 A. The last series of conversations were
10 in relation to securing a loan to create the \$7
11 billion which we placed on deposit with
12 Barclays.
13 **Q. I see something referred to in the**
14 **documents as a box loan. Is that the loan**
15 **you're talking about?**
16 A. The 7 billion was a box loan, yeah.
17 Lehman took a box loan from Chase and let -- as
18 a result, Chase puts a lien on the assets for
19 that \$7 billion in cash, yes.
20 **Q. What assets was that lien on?**
21 A. There were assets which were
22 unencumbered assets sitting in Lehman's
23 clearance boxes at Chase.
24 **Q. Is that an identifiable set of assets**
25 **that now has a lien on them from Chase?**

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MR. SHAW: When you say "now," you mean as we sit here?

Q. As a result of that box loan, is there now a lien on a particular set of assets, identifiable set of assets in Lehman's box?

MR. SHAW: Objection to form.

A. Chase, in extending the loan to us, selected the assets that they thought suitable for collateralization on that loan.

Q. Did Lehman have any say in the selection of those assets?

A. No.

Q. Let me go back. I think I have a general sense of what you were working on at the time. I just want to go back with a couple of particular questions.

I wanted to go back to the Fed financing for a minute. Do you know what the repo rate was for that financing?

A. I don't know.

Q. What is a repo rate?

A. A repo rate is the rate of interest that you pay for the extension of the cash loan.

Q. Have you ever seen any schedules of

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repo rates with respect to the Fed financing?

A. Schedules of rates, no.

Q. So you don't -- I think you just said you don't know the repo rate for that Fed financing program?

A. Well, to be clear, there was more than one program.

Q. Right.

A. And I didn't know the rates on any of the programs.

Q. What was the repo rate on the September 18 transaction we've been talking about?

A. I don't recall.

Q. What is a repurchase price with respect to a repo?

MR. SHAW: Objection. Calls for a legal conclusion, but you can answer.

THE WITNESS: Okay.

A. A repurchase price -- a repo transaction is a collateralized loan. It's based on an initial sale of collateral and a repurchase of collateral. The price of that collateral on both, what are called both legs,

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which is the on leg, or start leg, or the off leg, or maturity leg, are the same thing. So the repurchase price would have been the price that was assigned to that collateral on the start of the transaction. There's no difference between the repurchase price and the initial price.

Q. What was the, just -- what was the initial price on the September 18 repo we've been talking about?

A. Well --

MR. SHAW: Objection. Foundation.

A. There were, if you're asking me about prices, prices of securities, there were prices on something along the lines of 10,000 securities. So...

Q. No, I'm asking the aggregate price on the September 18 repo. Am I correct to say that --

A. Well, it --

Q. -- Barclays, through bank of New York on behalf of Barclays, received collateral valued at \$42 billion, correct?

A. Right.

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Q. And they also received \$7 billion in cash pursuant to the box loan, right?

A. That's correct.

Q. What did Barclays give to Lehman?

A. Barclays gave to Lehman \$45 billion of cash.

Q. And is that the price that you were just referring to when you talked about the on --

A. No.

Q. Okay.

A. That's the -- that's what's known as the repo principal or the loan amount.

Q. Okay. And so how is that different from the prices you were just talking about?

A. Prices are the prices of the underlying collateral that securitized that loan.

Q. And how are they different from the principal of the loan?

A. The principal of the loan is the extension of the dollar amount or what the value -- what the value of cash that's being extended is. That's the loan principal.

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Q. Right.

A. The price, the prices, are the prices of the individual collateral that make up that loan, and in order for a loan to be effective, the value of the price times the par amount of the collateral should exceed the principal extended.

Q. Okay. Is that what's known as the haircut, the amount by which it exceeds?

A. The amount by which it would exceed the loan is known as the haircut, that's correct.

Q. And so what was the haircut associated with the September 18 repo?

A. There wasn't a -- there wasn't a specific stated haircut. There was a total loan amount, which was this \$45 billion, and the total collateral value that we were trying to transfer over to Barclays or what we were directed to transfer over to Barclays was approximately \$50 billion.

Q. And that \$50 billion was comprised of the approximately \$42 billion in securities that you mentioned earlier plus the cash?

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A. It turned out that that was the case.

It was initially intended to be all collateral, but the market value of what we were to transfer initially was \$50 billion.

Q. Okay. And Barclays was, after the -- after they received the proceeds of the loan and the collateral, was Barclays satisfied that it had received the entire amount of collateral that it was expecting with respect to that repo?

MR. SHAW: Objection. Foundation.

A. Yeah, I don't know whether they were satisfied or not. I mean, we completed the securities transfers until the point that we couldn't make any transfers because the system had been shut down, and we were requested at that point to deliver an additional 7 billion in cash, which we did.

Q. Okay. When was that transferred, approximately?

A. The 7 billion in cash?

Q. Yes.

A. Somewhere between 2 and 3 o'clock in the morning on the 19th.

Q. Friday?

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A. Well, it was -- it was -- we worked through the night of the 18th. So I guess it was very, very early in the 19th. So it was the morning of the 19th at like maybe 2 o'clock in the morning or something like that.

Q. So, back to the notion of a haircut, the haircut for that transaction is the difference between the approximate \$50 billion in collateral and cash that was transferred to Bank of New York and the 45 billion that Barclays transferred to Lehman, correct?

A. Could you repeat that one more time? I'm sorry.

Q. I'm just trying to figure out what the haircut is for that transaction. I thought you said that approximately 50 billion was transferred to Bank of New York or Barclays?

A. That's correct.

Q. In the form of either collateral or cash?

A. Uh-huh.

Q. And that Barclays gave Lehman 45 billion in cash?

A. Right, that's correct.

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Q. So that makes the haircut approximately \$5 billion?

A. That would be correct.

Q. Do you know what the haircut was for the Fed program earlier in that week?

A. I don't. Again, the haircut, each security class had its own individual haircut, so there would have been a, I guess what's called a synthetic haircut, which, you know, would equate to something similar to what you did there, you know, so -- and I believe it was similar because the transaction was described to me as we were going to take the extension of financing that the Fed had offered to Lehman and we were going to help effect the transfer of that to Barclays so that Barclays could then step back into that transaction. So I believe it was similar. I don't know exactly what the haircut was.

Q. Okay. And who described the transaction to you like that?

A. John Rodefald, who was held of North American Operations at the time, had contacted Alastair and myself to talk about the

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2 transaction.
3 **Q. And what did he say about it?**
4 A. He basically told us that Barclays had
5 been contacted by the Fed and Barclays was asked
6 to provide a credit, a counterparty credit
7 upgrade to the Fed, in essence. They were fine
8 with financing the collateral basket that they
9 were financing, but they would prefer not to
10 have Lehman as a counterparty on the other side
11 of that.
12 They asked Barclays to basically
13 intermediate a transaction where Barclays
14 offered Lehman the same financing that they had
15 been -- that the Fed had been financing with
16 them throughout that week, and then that
17 Barclays would take that collateral and place it
18 back on deposit with the Fed to make them whole
19 on the cash transaction.
20 **Q. I think I understand what you just**
21 **said.**
22 **What else did Mr. Rodefeld say on that**
23 **call?**
24 A. Well, that call was on the 17th, and
25 they initially were looking to actually effect

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 of the parties. Purely from the size of the
3 transaction, it was an extremely large
4 transaction, and the number of securities
5 involved were in the multiple thousand range,
6 you know, I would say in the double-digit
7 thousand range. So that was one of the issues.
8 So not just from a transactional
9 perspective, but also from a static perspective
10 on the Bank of New York's side, they didn't have
11 a lot of these securities set up on their
12 systems. It was going to take them time to set
13 the securities up to be able to set up receipts
14 for these securities and things along that
15 nature.
16 **Q. So how was it possible to do it on**
17 **Thursday as opposed to Wednesday?**
18 A. People were working 24 hours a day to
19 get it done and bunches of people were brought
20 in to help set things up and there were
21 technologists brought in on all different sides
22 to help do away from ordinary type transactions
23 and things like that to get the securities
24 transferred.
25 **Q. So am I correct to say that you**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 that transaction the same day on the 17th. And
3 then, you know, with some subsequent
4 conversations, it just became -- it basically
5 became an impossibility not just for Lehman
6 Brothers, but for Bank of New York, JPChase,
7 Barclays to do a transaction of that magnitude
8 in the course of a day.
9 So from the 17th through the --
10 basically the whole 17th into the night of the
11 17th and even morning of the early 18th, we
12 discussed the mechanics on how we would effect
13 that transfer in the most efficient manner.
14 **Q. So do you recall anything else about**
15 **what Mr. Rodefeld told you on that call?**
16 A. Not other than what I just described
17 to you.
18 **Q. So am I correct to say that the**
19 **initial intent was to have this transaction take**
20 **place on the Wednesday of that week?**
21 A. From the first phone call, yes, it was
22 intended to take place on Wednesday, but...
23 **Q. And just why mechanically was that not**
24 **possible?**
25 A. There were numerous reasons from each

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 learned of the possibility of this transaction
3 sometime on Wednesday, late Wednesday, and then
4 people worked through Wednesday night and then
5 all the way through Thursday night to get it
6 done?
7 A. That's correct.
8 **Q. Okay. Did the nature of that transfer**
9 **change at all? In other words -- let me**
10 **rephrase that.**
11 You just described what Mr. Rodefeld
12 told you about the transaction. Did that
13 transaction change at all over the course of
14 that Wednesday into Thursday?
15 MR. SHAW: Objection. Foundation.
16 A. The nature of the transaction itself,
17 the spirit of the transaction, nothing changed,
18 no.
19 **Q. Okay. That makes sense.**
20 A. Could I -- I apologize.
21 (Discussion off the record.)
22 (Recess; Time Noted: 10:31 A.M.)
23 (Time Noted: 10:38 A.M.)
24 BY MR. HINE:
25 **Q. Mr. Hraska, I just want to take a**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **second to just talk again about your**
3 **understanding of the transaction between**
4 **Barclays and Lehman.**

5 **Did you ever have any understanding**
6 **that there was supposed to be a discount**
7 **associated with that transaction?**

8 A. Which transaction? The repo
9 transaction?

10 **Q. No. No, the sale transaction between**
11 **Barclays and Lehman.**

12 A. I didn't have any knowledge as to what
13 the terms of that transaction were.

14 **Q. Did you ever hear the phrase "block**
15 **discount" used in connection with either that**
16 **transaction or the repo that we have been**
17 **talking about?**

18 A. No.

19 **Q. Did you ever have any understanding**
20 **that Barclays was going to be paying less than**
21 **full value for the assets that it was buying**
22 **from Lehman?**

23 A. No.

24 **Q. Did you ever hear any discussion about**
25 **the possibility of defaulting on the repo that**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **we have been discussing?**

3 A. There was discussions related to that
4 topic on the week of the 22nd.

5 **Q. Tell me what you recall about that,**
6 **those discussions.**

7 A. Well, there was -- it was news that
8 obviously LBI had filed for I guess SIPC
9 protection. So the margin folks had contacted
10 me on the morning of -- I don't know which
11 morning, I believe it was on the 22nd, but if
12 not, on the 23rd, to ask me if that transaction
13 was being considered a default by Barclays. And
14 at the time, I didn't know, but there was -- I
15 then had conversations about whether that was
16 going to be treated as default with my manager,
17 and at the time, you know, we didn't actually
18 know when it was or if it was going to be
19 treated as in default.

20 **Q. When we talk about "it," we're talking**
21 **about the September 18 repo?**

22 A. Repo itself, yes.

23 **Q. And LBI filed for bankruptcy on**
24 **Friday, the 19th?**

25 A. That's my understanding.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Q. And so you had conversations the**
3 **following Monday about this?**

4 A. Yes.

5 **Q. And who were the conversations with?**

6 A. I don't recall specifically. Somebody
7 from the Margin Group. I don't recall
8 specifically who it was from the Margin Group
9 that I had a conversation with. And I also had
10 a conversation with Monty Forrest, which is my
11 manager.

12 **Q. The Margin Group at Barclays?**

13 A. The Margin Group at legacy Lehman
14 Brothers.

15 **Q. Do you recall the names of the**
16 **individuals that you spoke to?**

17 A. No, I just said I didn't recall it.

18 **Q. To your understanding, was the**
19 **September 18 repo unwound in some way?**

20 A. To my understanding, it was defaulted
21 and the collateral that was put up to securitize
22 that loan was seized by Bank of New York for the
23 benefit of Barclays.

24 **Q. Okay. And did Bank of New York also**
25 **seize the cash that had been posted?**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**

2 MR. SHAW: Objection. Foundation.

3 A. The cash itself was not in an account
4 that or in a position for Bank of New York to
5 seize. The cash itself was being held for the
6 benefit of Barclays at JPC Chase.

7 **Q. Okay. And what happened to that cash?**

8 MR. SHAW: Foundation.

9 A. Barclays, because the cash was put
10 into the account of their benefit, they -- later
11 I understood, and it would make sense, that they
12 claimed ownership of that cash. What happened
13 to the cash after that, I sort of was removed
14 from the transaction after they laid ownership
15 claim to that cash.

16 **Q. Okay. I guess do you understand that**
17 **there was an ensuing dispute between Chase and**
18 **Barclays as to the ownership of that cash, among**
19 **other things?**

20 A. I did, yes.

21 **Q. And were you involved in that**
22 **resolution of that dispute?**

23 A. My only -- not in the resolution, no.

24 **Q. What was your involvement in**
25 **connection with that dispute?**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. To do some fact-finding to describe
3 how that cash --
4 MR. SHAW: Actually, let me just stop
5 you here. If this was any work you did for
6 counsel, I don't want you to get into the
7 details of it.
8 THE WITNESS: Okay.
9 A. It was purely to describe how that
10 cash got there, why was there cash in a repo
11 transaction.
12 **Q. And who were you describing that for?**
13 A. My initial conversation on that was
14 with -- was with the Treasury folks, and that
15 was more so just to -- was more so just to
16 review sort of what happened on that evening
17 and --
18 **Q. When you say "the Treasury folks," are**
19 **you talking about Mr. Tonucci?**
20 A. Mr. Tonucci and his organization,
21 yeah.
22 **Q. Okay. And so am I understanding you**
23 **correctly that you explained to them the genesis**
24 **of the box loan that we just previously**
25 **discussed and how the cash came to be involved**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Q. Can you tell me what they are?**
3 A. I can tell you the ones that I'm aware
4 of. I may not tell you every reason, but ...
5 The first reason was that some of the
6 collateral that was pledged to the Bank of New
7 York -- I'm sorry, that was pledged to the Fed
8 was obtained through a program called GCF, which
9 stands for General Collateral Financing.
10 **Q. Uh-huh.**
11 A. As a result of this program, you
12 obtain collateral. It's basically it's a
13 dealer-to-dealer tri-party program. So you
14 obtain collateral, which is credited on a
15 book-entry-only basis to your clearing bank, and
16 that clearing bank -- you can use that
17 collateral to -- you can basically rehypothecate
18 that collateral. You can use it as collateral
19 for an ongoing transaction.
20 The transference of that collateral is
21 purely governed by the Fixed Income Clearing
22 Corporation, or FICC, in conjunction with the
23 two clearing banks, Bank of New York and
24 JPChase. So when a transaction is agreed and
25 it's put on and when it's unwound, what happens

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **in that transaction?**
3 A. Yes.
4 **Q. And did you have any other involvement**
5 **in the dispute between Barclays and Chase over**
6 **that cash?**
7 A. No.
8 **Q. Okay. I would like to revisit some of**
9 **the things we talked about earlier.**
10 **There was a pool of collateral that**
11 **was used to secure the Fed financing early in**
12 **the week, correct?**
13 A. That's correct.
14 **Q. And I think you told me you weren't**
15 **aware of the value of that pool; is that right?**
16 A. That's correct.
17 **Q. At some point that pool was supposed**
18 **to be transferred to Bank of New York for the**
19 **benefit of Barclays, but not all of it makes it,**
20 **right?**
21 A. That's correct.
22 **Q. And now do you know why it didn't make**
23 **it, that portion of it didn't make it?**
24 A. There were multiple reasons why not
25 all the collateral made it.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 is is that the transference of that collateral
3 is purely governed, as I mentioned, by FICC.
4 And so we had previously purchased
5 collateral under that program and we were using
6 some of that collateral purchased under that
7 program, and when the morning of the 18th hit,
8 some of those programs had matured, and as a
9 result of that maturity, that collateral was
10 taken out of our clearance boxes on an automated
11 fashion away from us having any involvement in
12 or being able to even stop that. Because just
13 as part of the program, collateral comes in and
14 goes out.
15 So what was previously sourced from
16 that program and listed as a rehypothecated
17 asset to the Fed on the morning of the 18th was
18 no longer available for us to actually transfer
19 to Bank of New York.
20 **Q. And do you know the value of the**
21 **collateral that was -- falls into that category?**
22 A. I don't know the value of specifically
23 the GCF collateral. I know that there was -- it
24 was a significant value. There was a value
25 of -- GCF collateral is typically Fed-eligible

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collateral. We had a discrepancy of
approximately 8 billion in Fed-eligible
collateral, but I don't know whether that
discrepancy -- I can't say for certain whether
that discrepancy was purely related to GCF or
not.

**Q. When you say 8 billion, is that the
amount that didn't make it from the Fed program
to the Bank of New York?**

A. That was the amount at the time when
we tried to effect the transfer of the Cusips
that were out there that we were unable to
transfer on the 18th.

**Q. And so am I correct to say there was
approximately \$8 billion in collateral that was
not able to transfer on the 18th from the Fed
program to Bank of New York; is that right?**

A. Yeah, initially, yes.

**Q. Okay. And a portion of that 8 billion
wasn't able to transfer due to this --**

A. GCF.

Q. -- GCF issue that you just described?

A. Yes.

Q. Do you know what portion of it falls

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into that category?

A. I don't, unfortunately.

**Q. Do you know if it's most of it or only
a small portion?**

A. I don't think it's most of it, but
it's somewhere between most and small. It's
probably somewhere in midrange. I don't
honestly know.

Q. I'm not trying to get you --

A. It's not insignificant, but I don't
think it's most of it.

**Q. So that leaves another portion of the
8 billion that didn't make it. Why did the rest
of it not make it?**

A. All right. So there were other things
that were happening on that day. Collateral
over securities that were moving were securities
that were also traded by our inventory traders,
proprietary traders at Lehman. They were also
securities that, you know, customers maybe were
asking to move out of their accounts and move to
other broker-dealers.

When all these transactions take
place, there are a queue of deliveries that get

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built out of the delivery boxes, and when there
becomes availability, there's no way without
manually intervening in every single delivery to
say, okay, wait a minute, this Security A goes
to Customer A and Security A goes to Customer B
or C.

So what was happening, unfortunately,
is many of the securities that were going --
that had deliveries onward to Bank of New York
for the benefit of Barclays also had onward
delivery instructions for other people as well.
So when the availability -- when the securities
became available, some of those securities were
first delivered to other onward obligations.

**Q. Do you know approximately how the
amount of securities that fall into that
category?**

A. I don't. I actually have no idea on
that because that was -- that was a non-stop
request of, you know, customer transfers, new
trades and, you know, inventory traders were
trying to sell assets to raise cash. So it was
just an enormous amount of transactions in a
particular time period.

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Q. Did those securities, I think I

**understood what you said, they got used for
other purposes, basically, and is that -- does
that relate to the winding down of the matched
book that was managed by the Finance Department,
the Financial Department within Lehman?**

A. I wouldn't attribute it to a winding
down of the matched book. All I can say is that
there were -- there were trades booked in the
system that were, you know, outward-going
deliveries. They could have multiple sources.

So, as the securities came in, they
just made on those deliveries and they could
have multiple reasons why they were pending for
delivery.

**Q. I think you were describing reasons
that some of the collateral didn't make it to
BONY. Are there any other reasons?**

A. There is one other reason in my mind
that was a reason of the initial -- there was an
initial shortfall, right? And that was because
we were initially going to do the transfer in
increments of \$5 billion, and Barclays had
forwarded the first \$5 billion and our tri-party

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agent was then, upon receipt of that \$5 billion, supposed to released \$5 billion worth of collateral that was previously held in the Fed program.

They had sent in a request to Lehman Brothers, "they" being JPChase sent in a request to Lehman Brothers as to which securities -- or did we have a preference as to which securities were released first. The response back was there was no particular order that needs to be released first. However, just release the securities that are in the program.

Unfortunately, there was a miscommunication and JPChase understood that to be any \$5 billion, and it released also some securities that were not in the program.

Q. When you say "the program," you're talking about --

A. "The program," meaning that were being financed by the Fed the previous evening.

Q. And so I interrupted your story, but continue.

A. So, as a result of that release, those securities had some onward obligations as well

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because they were subject to other transactions, as we described earlier, and those securities as well had gone out away from Bank of New York, and as a result of all these different things taking place, the first delivery of collateral only accomplished somewhere in the neighborhood of around probably 2 billion or less.

Q. Can you explain that? I mean Chase thinks they're releasing 5 billion?

A. Uh-huh.

Q. And only 2 billion or less makes it to BONY?

A. Right.

Q. And how does the rest get diverted? Just automatic?

A. Well, per the process we just talked about, those assets get released to our availability, and because there were pending deliveries in our clearance locations at both DTC, 636, O74, the Fed box, when those securities became available, they were immediately delivered on other obligations and they weren't available any more to be delivered to Bank of New York.

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Q. So, just to continue the story, Chase thinks it's delivering 5 billion, but they get diverted to other purposes and only a little less than 2 billion makes it to BONY out of that first delivery?

A. Chase releases their lien on 5 billion, and as a result, yes, Lehman, through it's clearance relationships, only delivered 2 billion. I think it was under 2 billion, but I just don't -- somewhere under 2 billion I think is the figure.

Q. So what happens next?

A. At that point in time we were contacted by John Rodefled, who was representing operations at Barclays. He said we were going to suspend -- we were going to suspend the next increment of \$5 billion in cash being wired because Barclays didn't feel comfortable in wiring another 5 billion when they hadn't fully received the assets on the first 5 billion, and he asked us to hold off until we heard back from him with further instructions.

Q. And did you eventually get further instructions?

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A. We did very late in the day, I would say somewhere in the neighborhood of between 4 and 5 o'clock. He said that it was decided that Barclays was going to extend the remainder of the loan balance in a single transaction, which would have been the \$40 billion, and at that point in time, you know, expect to have, you know, Chase release the availability of the remaining 40 billion, I think, or of 40 billion that they had, and we were asked to coordinate with the clearance folks, to the best that they could, to try to monitor assets going and give priority of the assets to Barclays.

And that was -- it was a difficult task, but they, you know, they brought in extra people and tried to watch deliveries and that kind of thing. It was all on a manual basis so it was very difficult to do that, but they did the best they could with, you know, being that it was manual in nature.

Q. Why, if Chase was -- I mean, if -- excuse me. If Barclays was concerned about not sending the next 5 billion, why did they decide to go ahead and send 40 billion instead?

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A. I honestly don't know.

Q. And so were you eventually successful in releasing the remainder of the collateral that Barclays was expecting?

A. Well, as we discussed a little bit earlier, the -- we did manage to get over a total of 42 billion out of the 50 billion in collateral that we were expecting to send over.

Q. Okay. Am I correct to say that 42 billion -- they had 2 billion from the initial release from Chase and then so there was an additional 40 transferred over?

A. Rough approximation, that's correct.

Q. So now you're continuing to tell me the reasons that not all the Fed collateral made it to BONY. Are there any other reasons that you know of?

A. No, those are the primary items.

Q. Okay.

A. At least the ones that I was aware of. There might have been something else that I'm not aware of.

Q. I believe you said that approximately 8 billion did not make it from the Fed program

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to Bank of New York, correct?

A. There was, yes, that's correct.

Q. And so I know you don't know the exact numbers, but is 3 billion of that 8 billion the result of this initial shortfall problem that you just described?

A. I wouldn't have any way to determine that.

Q. I thought you said the initial release from Chase was supposed to be 5 billion and only about 2 billion made it to BONY out of that release; is that right?

A. That's correct.

Q. So --

A. But I don't know if what you're asking me is the -- is the 3 billion shortfall comprised of, you know, these GCF and whatever assets. I don't know what percentage of that was GCF or other deliveries or other transactions. That's, unfortunately, I have no way of knowing that.

Q. Okay. Was any of the 8 billion shortfall later transferred to BONY?

A. Well, what was transferred was a total

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of 42 billion. I mean, there was 8 billion of the Fed program, and those were Fed -- we probably need to make a distinction between the Fed program securities and what are deemed Fed wirable or Fed securities, right?

So there was, you know, what was held in the program, which were DTC-eligible securities, Fed wirable securities and that kind of thing. So the 8 billion shortfall, it was not only a shortfall of what was in the Fed program, it was basically a shortfall of Fed wirable security types.

So we found substitutes of a good portion of that 8 billion. I couldn't tell you the exact quantities, but that's why we were able to, you know, to manage to get, you know, a good portion of the collateral over to Bank of New York.

Q. I think I understood what you just said, but let me see if I can see if I got that right.

\$8 billion does not make it for any number of reasons to the BONY in the course of this transfer over Thursday night, and are you

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saying --

A. Well, let me clarify that. 8 billion that was initially intended to be transferred --

Q. Right.

A. -- was not going to be eligible to be transferred for various reasons.

Q. Okay. Then you relayed that 42 billion in securities ultimately did make it to BONY, right?

A. Uh-huh. Yes, that's correct.

Q. Now, was some of that 42 substitute securities for the 8 billion?

A. Yes, it was.

Q. Do you know how much?

A. I don't. I mean, we managed to make up as much as we could. I don't know the percentages of what was substituted from the original 8. I mean, at that point we knew 8 and there were other things that were causing problems. And then the goal became you need to get the \$50 billion worth of collateral over and make sure you get every collateral that doesn't have lien on it or unencumbered collateral that's eligible for the Barclays transaction

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2 over there.
3 So, you know, it stopped being about
4 this pool or that pool or this type of
5 collateral or that type of collateral. You
6 know, there were specific, you know, buckets and
7 things, but at a certain point in time, we were
8 instructed by John Rodefald to deliver all
9 eligible collateral that fit the criteria to
10 Barclays in as most efficient, quick manner as
11 possible.
12 **Q. I had one question. I know we're**
13 **talking round numbers here, but if you were**
14 **supposed to deliver 50 and you delivered 42, how**
15 **does the 7 billion box loan make up the entire**
16 **difference? Was there -- seems to be another**
17 **billion dollars missing.**
18 A. Again, it was 42 and change that made
19 it and there was I think it might have been just
20 under 50. It was 49 and some mid to high
21 change.
22 **Q. So the --**
23 A. You know, what's a half a billion
24 between friends?
25 **Q. So I just want to make sure I wasn't**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 ahead and allocated securities that they deemed
3 appropriate that were being held in their
4 clearance box.
5 **Q. Am I correct to say that the assets**
6 **used to secure that box loan had nothing to do**
7 **with the assets you have just described that**
8 **were supposed to go from the Fed program to**
9 **BONY?**
10 A. I wouldn't know specifically whether
11 there were any circumstances where there might
12 have been a Cusip that was or a security that
13 was the same that were on the initial intended
14 list. It's possible. I wouldn't know for sure.
15 **Q. Okay. I see reference in some of the**
16 **documents to something called fails on around**
17 **Thursday. What is that term meant to entail, in**
18 **your understanding?**
19 A. The general term "fails" or --
20 **Q. Well, I see it in the Thursday night**
21 **e-mail traffic, and I just wondered how that**
22 **term is used in connection with what we're just**
23 **talking about, if at all.**
24 A. Okay. Well, a fail is an interesting
25 term, actually. It, for most operations

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 **missing a billion here or there.**
3 A. No. No.
4 **Q. It's really the 50 billion that was**
5 **supposed to make it, made it in the form of**
6 **approximately 42 and change --**
7 A. Yeah.
8 **Q. -- in securities, and the balance was**
9 **the box loan?**
10 A. Yes, that's correct.
11 **Q. What securities were used to secure**
12 **the box loan?**
13 A. I don't know the specific securities.
14 I'm sure that could be provided by --
15 **Q. Well --**
16 A. I mean, if you're asking me like -- I
17 think we talked a little bit about this before.
18 There were securities which were unencumbered
19 still at our clearance box at Chase. So Chase
20 looked at the securities that were available and
21 said, you know, you have market value that, you
22 know, far exceed 7 billion.
23 So we requested a loan. They, you
24 know -- we basically booked the transaction for
25 a 7 billion loan on our books and Chase went

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2 professionals, a security transaction is booked,
3 and until the point of delivery, it's considered
4 a fail.
5 So that may mean if I book a
6 transaction let's call it last night, 8 o'clock
7 in the morning I haven't delivered it yet, it's
8 still failing. You know, I may make delivery by
9 the end of the day, and at that point, you know,
10 it becomes cleaned up.
11 Other people in the industry refer to
12 fails as, you know, after settlement date, but
13 from an operations perspective, which is
14 probably a good part of the mail you see, fails
15 are related to undelivered securities at a
16 particular point in time.
17 So on that day we had a enormous
18 amount, as we talked about those, sort of those
19 trades that were queued up before that I
20 referenced, those were all pending deliveries or
21 fails. So over the course of time, as
22 availability -- as securities became available,
23 those fails were getting cleaned up. So there
24 were --
25 **Q. Okay.**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **(Exhibit 137B, a document bearing**
3 **Bates Nos. 10294679 with attached**
4 **spreadsheets, marked for identification, as**
5 **of this date.)**
6 **Q. Mr. Hraska, I'm handing you a copy of**
7 **a document marked as Exhibit 137B, which is an**
8 **e-mail chain from September 18, 2008, on which**
9 **you are a CC recipient, and attached to it is a**
10 **spreadsheet and sheet of some sort.**
11 **Please take a minute to look at it and**
12 **I have a question or two about the spreadsheet.**
13 A. Okay.
14 (Document review.)
15 A. Okay.
16 **Q. Have you had a chance to look at the**
17 **document?**
18 A. Uh-huh.
19 **Q. I know we were talking about fails**
20 **previously, so I just wanted to get a sense of**
21 **what this type of report is.**
22 **Could you tell me what this document**
23 **is? I'm talking about the report that's**
24 **attached to it.**
25 A. I mean, I'm not sure of the generation

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 fail status.
3 **Q. Okay.**
4 A. And then prior -- or, as a result of
5 them not be being available, then, yes, they
6 would have had to have been cleaned up.
7 **Q. Okay. Thanks. That's all I have for**
8 **that document.**
9 **(Exhibit 138B, an e-mail chain, the**
10 **first one in time bearing a date of**
11 **September 18, 2008, at 5:40 P.M., marked for**
12 **identification, as of this date.)**
13 **Q. Ready to continue?**
14 A. Sure.
15 **Q. Mr. Hraska, I've handed you a copy of**
16 **a document marked Exhibit 138B, which appears to**
17 **be an e-mail chain dated September 18, 2008 in**
18 **which you are a participant.**
19 **Could you just take a moment and just**
20 **review this real quick and then I have a few**
21 **questions.**
22 (Document review.)
23 **Q. Have you had a chance to look at the**
24 **document?**
25 A. Yes, I have.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 of this report. This is a listing of trades
3 that are currently in fail status. So I don't
4 know whether this was -- what system it was
5 taken out of, but it is, looking at the data
6 itself, is it is fail information.
7 **Q. So am I correct to say that, during**
8 **the course of this Thursday when you are trying**
9 **to transfer all these securities, people would**
10 **periodically get reports of what had failed and**
11 **then they would try to clean them up?**
12 A. My group, along with the Clearance
13 Group, was monitoring the status of failed
14 trades or not in trying to, yes, effect those
15 transfers and clean up the fails, yeah.
16 **Q. And the 8 billion that you described**
17 **earlier that didn't make it to BONY, those would**
18 **all show up as fails that eventually could not**
19 **be cleared up?**
20 MR. SHAW: Just so we're clear, you
21 mean on this list or --
22 MR. HINE: No, I'm not talking about
23 the list now.
24 A. They would have initially been booked
25 as transactions which would have showed as a

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Q. Mr. Hraska, I was wondering if you can**
3 **just explain to me generally what the issue is**
4 **that's being discussed in this series of e-mails**
5 **with respect to fails, if you recall.**
6 MR. SHAW: Objection to form.
7 A. Yeah, I don't recall the issue being
8 discussed. This -- it's a long time ago, but I
9 believe this was forwarded to me just because I
10 was involved in a transfer of collateral of some
11 assets, and I think anybody that had any
12 involvement with asset transfers for fails or
13 anything, you know, were being kept apprized of
14 all types transactions going on.
15 So, like I said earlier, I didn't
16 really sort of know what was going on in some of
17 these other negotiations. My role in this, not
18 to dumb it down, was kind of like more to do
19 with the mechanics of the financing, right? So
20 kind of move assets from one place to another
21 and talk to the trading desk. So I'm not a
22 hundred percent sure as to what was going on
23 here with this stuff.
24 **Q. Okay. My question was were you**
25 **involved in any discussions with Barclays about**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 whether they were going to assume liabilities
3 associated with fails?
4 A. No, unfortunately not.
5 Q. Did you hear anything about that or
6 recall hearing anything about that at the time?
7 A. I remember this mail. I don't
8 remember any other -- like I wasn't
9 participating in any conversations about it or
10 anything like that.
11 Q. Okay. Before I forget, I wanted to
12 ask you, were you -- do you have any involvement
13 in -- during the week of September 15th, 2008,
14 did you have any involvement in any amendments
15 to the Master Repurchase Agreement that were
16 being made?
17 A. Which one? There's -- let me -- let
18 me clarify my response. Master Repurchase
19 Agreement is usually between two counterparties,
20 the repo buyer and repo seller. So there
21 were -- we have thousands, so I mean --
22 Q. Well, I see there's a Master
23 Repurchase Agreement between Barclays and Lehman
24 during that week, correct?
25 A. There is, that's correct.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 any other liquidity provider. Once the
3 agreement was signed and the, you know, the
4 appropriate schedules were put in place with
5 JPMorgan Chase, then, you know, my team would
6 have been involved again in helping the desk
7 find appropriate collateral that would have fit
8 that schedule and things like that.
9 Q. Okay. So that is separate and
10 distinct from the September 18th repo that we've
11 been talking about, right?
12 A. That's correct.
13 Q. And what was that financing known as
14 among you folks during that week?
15 A. It was just a tri-party repo
16 transaction with Barclays. That was probably --
17 I mean, that's best classified as a generic
18 tri-party repo transaction. It was as true to
19 form as they come. It was a transaction with a
20 schedule, collateral. JPChase handled the
21 allocations of the collateral.
22 Q. The collateral used to support that
23 financing was separate and distinct from the
24 collateral used to support the September 18th
25 repo, right?

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 Q. Do you recall any discussions or did
3 you have any involvement in any efforts to amend
4 that agreement --
5 A. No.
6 Q. -- during that week?
7 Do you have any understanding of why
8 an amendment might have to be made to that
9 agreement during that week?
10 A. There was an amendment made to the
11 agreement. There were amendments made. I'm not
12 sure of the specifics of the amendments, but
13 there were amendments because Barclays was
14 providing some financing to Lehman on a
15 tri-party basis, but ...
16 Q. So was --
17 A. Not related to the transaction on the
18 18th. There was -- Barclays was providing
19 financing prior to the 18th to Lehman as a
20 liquidity provider, no different than Fidelity
21 or Merrill Lynch.
22 Q. Okay. So did you have any role in
23 that financing?
24 A. The role I would have had there is no
25 different than the role I would have had with

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. The collateral that was used to
3 support that transaction was available
4 collateral in the clearance boxes during the
5 course of that week. Each day that transaction
6 was an overnight transaction that went on and
7 came off.
8 I wouldn't say that the collateral was
9 separate and distinct. It was just collateral
10 that was available in the boxes.
11 Q. But the collateral could not support
12 both -- same piece of collateral could not
13 support both financings, right?
14 A. Well, that's correct, but at what
15 point in time are we talking? This transaction,
16 the transaction I'm discussing now was in place
17 earlier on in the week prior to the 18th. So
18 prior to the 18th, it -- any piece of collateral
19 in the box would have been available.
20 Now, on the 18th, that transaction
21 ceased to exist. So, you know, so there was no
22 time -- there was no point in time when those
23 transactions were both on at the same time.
24 Q. Thank you. So why did that
25 transaction cease to exist on the 18th?

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MR. SHAW: Objection. Foundation.

A. I don't know. I mean, that's a trading decision as between I guess Barclays and Lehman's trading desk as to whether or not they were going to roll that transaction to the 18th.

Q. Did you ever hear any discussions about why that transaction was not rolled into the following day?

A. I don't know why it wasn't rolled. I know that it was not rolled, but I don't know why it wasn't rolled, no.

Q. Did the failure of it to roll affect in any way the September 18th repo that we've been talking about?

MR. SHAW: Objection. Foundation.

A. It did not affect the repo itself. The repo of September 18 had been completed on, you know, whatever that last transaction was, a deposit of cash, at 2, 3 o'clock in the morning point.

It was at that point that that was the main focus. Everybody at the firm was collateralizing that repo and, you know, Lehman believed at the time that that other transaction

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was also rolling and we were going to just finish that up after completing the other -- the large transaction, \$50 billion transaction.

But as it turns out, you know, at that late hour, we found out that Barclays hadn't in fact -- because in order to roll that transaction, they would have had to deposit 14 or 15 billion dollars in cash. So JPChase had informed us that, you know, as of that time, that cash had not yet come back in.

And at that point it was when we realized that, you know -- we didn't know what was Barclays' intention. We still assumed Barclays' intention was to roll it and that there was an operational problem or something with not sending those funds in. You know, we reached out and tried to contact some Barclays folks at the time, but we were unable to, so ...

Q. And how was this issue ever resolved? Do you know?

A. The issue on that evening, JPMorgan asked us what Barclays' intention was and, you know, we didn't know. We can only tell them what our intention was, and our intention was is

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that we were -- we were rolling the transaction for an additional day.

They suggested that we, you know, that we book a "held in custody" transaction, in which case, you know, JPChase would be looking to collect 15 billion that should have been, you know, delivered in if they were going to roll the transaction. JPChase would, you know, put a lien against the assets for the benefit of Barclays until the next morning.

Q. Are we talking Thursday night into Friday morning now?

A. Thursday night, yeah. This was done very late Thursday night or somewhere in the 2 to 3 o'clock hour of Friday morning, and the expectation was is that, you know -- or, Chase's expectation was is that we and/or them would contact Barclays and have them send in the payment with a back valuation adjustment for the 18th.

Q. Did that ever happen?

A. No.

Q. Did you ever find out later why they didn't roll that loan?

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A. Not specifically. Just found out that it was not their intent to roll that loan for that date.

Q. Have any general understanding of why?

A. No, not specifically. I mean ...

Q. So am I correct to say that, because they didn't roll that loan, Lehman was forced to take this HIC loan from Chase?

A. Well, Chase forced Lehman into that position. What happened is, you know, Chase said, you know, we are, in essence, lien on those assets now until you come up with the 14 and change, 15 billion, I guess for round numbers, cash. And they basically seized the assets and put themselves on as the counterparty. Very similar to the -- it would have looked from a transactional perspective very similar to the box loan that was put on for the 7 billion.

Q. So, in the end, there is a HIC loan effected over that night, correct?

A. Over that night, there was a HIC loan that was booked with Barclays as a beneficiary. That beneficiary was changed by JPMorgan Chase

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 on the morning of the 19th, somewhere in before
3 noon. I don't know exactly when it was.

4 **Q. Changed to who?**

5 A. Changed to Chase being the
6 beneficiary.

7 **Q. Can we discuss for a couple minutes**
8 **the -- what happens to the September 18 repo**
9 **after it's now been collateralized and the box**
10 **loan has been granted? So there's a bunch of**
11 **collateral supporting that loan. What happens**
12 **on Friday with respect to that loan?**

13 MR. SHAW: Foundation.

14 A. With respect to the overall loan, in
15 other words, the whole repo transaction, or the
16 loan to support the 7 billion in cash?

17 **Q. The whole repo transaction.**

18 A. The whole repo transaction, okay. So
19 as a result of the fact that we deposited the 7
20 billion in cash, you know, normal course is for
21 my group to work with tri-party operations to
22 try to maximize the efficiency of our
23 collateral.

24 So it's typical -- it's not typical to
25 leave cash on deposit as collateral. I mean,

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 it's done on tri-party transactions in, you
3 know, somewhat normal course, but, you know,
4 ideally you try to substitute collateral.

5 So I had worked with the trading desk
6 and the Tri-Party Ops folks and we started
7 looking for collateral to substitute for that 7
8 billion. So that's I think we referenced a
9 little bit earlier the billion-35 that we had
10 come up with.

11 **Q. Okay.**

12 A. And again, the intent was to deliver
13 the billion-35 in and to receive a portion of
14 the cash -- equivalent market value of cash
15 back.

16 **Q. And what ended up happening?**

17 MR. SHAW: Objection. Foundation.

18 A. Yeah, I mean what ended up happening
19 was we lived up to our part, we delivered the
20 collateral in, and then there was some, you
21 know, some dispute about the cash and, you know,
22 some other things, and at the end of the day,
23 you know, we never got returned the cash by
24 Chase.

25 **Q. Okay. On Friday of that week, LBI**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 **files for bankruptcy, correct?**

3 A. That's correct.

4 **Q. And do you recall any discussions**
5 **about whether that would cause a default of the**
6 **September 18 repo?**

7 A. I think we talked about that a little
8 bit. I mean, you know, I started thinking about
9 it over the weekend, but I didn't have any real
10 conversations about it until I got a call from
11 the margin folks and until I sat down with Monty
12 and we talked about whether that was going to
13 trigger a default or not. Our assumption was
14 that it was going to.

15 **Q. At some point over that weekend, you**
16 **work on transferring the collateral that was**
17 **used to support the September 18 repo to**
18 **Barclays, correct?**

19 A. Not over the weekend, but --

20 **Q. When --**

21 A. The collateral was all transferred on
22 the night of the 18th, and then there was that
23 additional piece that we just talked about,
24 which was transferred on the 19th.

25 **Q. Right.**

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1 HIGHLY CONFIDENTIAL - J. HRASKA

2 A. On the weekend we worked to try to
3 locate additional collateral that would be
4 eligible for a transfer.

5 **Q. And that's the 1.4 billion we talked**
6 **about earlier?**

7 A. That's the 1.4 billion, yeah.

8 **Q. I had a question about that. Is that**
9 **1.4 billion as of that weekend; that's the value**
10 **of that collateral over that weekend?**

11 A. That was --

12 MR. SHAW: Objection. Foundation.

13 A. Again, that was -- the 1.4 billion is
14 the assets that were actually transferred over a
15 period of time, ending I believe on the 29th of
16 September, and it was based off of values that
17 were -- I actually don't know what the value,
18 what they were based off of.

19 I think they were based off of some
20 initial list, but they wouldn't have been based
21 off of the date of transfer. Like nobody was --
22 I wasn't involved in any repricing of assets or
23 anything like that, so I believe they were based
24 off of initial pricing.

25 **Q. You say you identified a pool of**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **assets that were approximately worth 1.4**
3 **billion. Was that -- did Barclays end up**
4 **getting all those assets?**

5 A. Let me just --

6 MR. SHAW: Mischaracterizes prior
7 testimony.

8 **Q. Go ahead, Mr. Hraska.**

9 A. I identified the list that I think was
10 probably greater than 1.4 billion. The 1.4
11 billion was only the securities that truly made
12 the transfer over. So, you know, we identified
13 the list of everything that we thought was
14 unencumbered and available for transfer. What
15 was physically able to be transferred equaled
16 approximately the 1.4 billion.

17 **Q. And what happened to the rest of the**
18 **assets that you identified? Were they ever**
19 **transferred to Barclays?**

20 A. They were hot.

21 **Q. Does Barclays thinks it's entitled to**
22 **those assets?**

23 MR. SHAW: Objection. Foundation.

24 A. I honestly don't know.

25 **Q. Since you've been working at Barclays,**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **have you heard any discussions about whether**
3 **they should be getting those assets?**

4 A. I was instructed to continue to search
5 for available collateral that was to be
6 transferred to Barclays as part of the larger
7 transaction between Barclays and Lehman, which I
8 continue to do in my capacity in working with
9 the Treasury folks and things like that, but I
10 don't know specifically whether it was those
11 same assets.

12 At that point in time, again, things
13 had changed a little bit. You know, we stopped
14 focusing on the repo because that had sort of
15 been taking care of already and it was a matter
16 of looking -- helping to continue to look for
17 unencumbered assets.

18 **Q. So, just so I understand, you**
19 **identified a list of unencumbered assets that**
20 **was, to your mind, worth more than 1.4, but only**
21 **1.4 made it to Barclays; is that right?**

22 A. That's correct, yes.

23 **Q. Do you know how much more than 1.4 the**
24 **assets were that you identified?**

25 MR. SHAW: Objection. Asked and

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **answered.**

3 A. I -- I know that it was probably in
4 the neighborhood of around 2 billion, but I
5 don't know how much more than that.

6 **Q. Okay.**

7 A. We had a lot of discussions about the
8 assets that, you know, and I can't recall
9 whether it was what is -- what ended up being
10 the list was assets that are only in the DTC
11 boxes or, you know, we were looking across
12 international boxes and all that stuff. So
13 there was just so much going and I know it was
14 north 1.4. I want to say it was 2 billion, but
15 I can't be sure.

16 **Q. Were you involved, since you've been**
17 **at Barclays, have you been involved in any**
18 **efforts to prepare an opening balance sheet that**
19 **would relate to the Lehman/Barclays transaction?**

20 A. No.

21 **Q. Did you have any role in connection**
22 **with their declaration -- or, let me withdraw**
23 **that. Do you have any knowledge of or**
24 **understanding of how Barclays was able to**
25 **declare a \$4.2 billion gain on acquisition as a**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **result of this transaction?**

3 A. No.

4 **Q. Do you have any current role in the**
5 **preparation of Barclays' balance sheets?**

6 A. No, the typically balance sheet and
7 things like that are performed by the Finance
8 folks and Product Control folks, which is
9 completely aware from Operations.

10 **Q. Do you give them any input during the**
11 **course of their preparation of the balance**
12 **sheets?**

13 A. If they have questions as to the
14 nature of transaction -- are we talking related
15 to the transaction between LBI and --

16 **Q. Yes.**

17 A. Okay. I have provided information as
18 to that transaction on the 18th and what assets
19 were transferred over, and I provided some
20 information around 1.4 billion as to what those
21 assets were that made it to Barclays, but as far
22 as determination of balance sheet or if those
23 assets were eligible for balance sheet, I don't
24 have any knowledge of that.

25 **Q. Okay. When you say -- who did you**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **provide that information to? The Treasury**
3 **Department?**
4 A. That would have been, yeah, Paolo and
5 his team.
6 **Q. How did you come to be involved in**
7 **what we have called Schedule A and Schedule B?**
8 A. Well, I guess I provided the assets
9 that ultimately became -- I provided lists of
10 assets that ultimately became Schedule A and
11 Schedule B. I was asked to provide schedules of
12 the assets that made it to Bank of New York,
13 which we did, and then as well as, you know --
14 you know, and over a period of dates, right?
15 So, to be very simple, I basically
16 provided a spreadsheet with tabs that said on
17 this date we moved these assets, on this date we
18 moved these assets, and those subsequently
19 became categorized as either Schedule A or
20 Schedule B, depending on I guess the timing of
21 the transfer.
22 **Q. Do you have any knowledge of what has**
23 **been called a clarification letter in connection**
24 **with this transaction?**
25 A. I've had -- I've heard the term, but

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Schedules A and B, so this is going to be the**
3 **30(b)(6) portion of your deposition because**
4 **that's the two topics that you have been**
5 **designated in part to cover.**
6 So what I'd like to do is walk through
7 some of the different schedules that I have seen
8 and discuss them in connection with Schedules A
9 and B.
10 A. Okay.
11 (Exhibit 139B, Printout of Schedules,
12 marked for identification, as of this date.)
13 **Q. Mr. Hraska, I'm handing you a document**
14 **which I've marked as Exhibit 139B.**
15 A. Okay.
16 **Q. Which is a voluminous printout of**
17 **schedules of some sort. It is marked with the**
18 **Bates stamps BCI-EX-00009798 through 10368.**
19 MR. SHAW: I'm not suggesting you read
20 this cover to cover, but take whatever time
21 you need to review.
22 **Q. I'm not going to ask you questions**
23 **about detailed entries in here, but I'm going to**
24 **ask you questions primarily about the first two**
25 **pages, but take whatever time you need just to**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 honestly I don't know what it means.
3 **Q. Have you ever read anything called a**
4 **clarification letter?**
5 A. No.
6 **Q. You have to say verbally say no?**
7 A. I'm sorry. No.
8 **Q. Did you have any understanding when**
9 **you were preparing these schedules that that**
10 **would become Schedules A and B to a**
11 **clarification letter?**
12 A. No.
13 **Q. Did you have any understanding of the**
14 **purpose of this clarification letter?**
15 A. No.
16 **Q. I want to spend a little time going**
17 **through these schedules. Do you want to take a**
18 **break before we do that?**
19 MR. SHAW: Why don't we take a short
20 break before we do that.
21 THE WITNESS: Thank you.
22 (Recess; Time Noted: 11:33 A.M.)
23 (Time Noted: 11:40 A.M.)
24 BY MR. HINE:
25 **Q. Mr. Hraska, I now want to talk about**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **familiarize yourself with the document.**
3 A. Thank you.
4 (Document review.)
5 A. Okay.
6 **Q. Have you had a chance to review it**
7 **briefly?**
8 A. I have, yes.
9 **Q. Have you ever seen this document**
10 **before?**
11 A. Yes, I have. I created it.
12 **Q. And is this a -- or, well, let's start**
13 **this way. What is this document?**
14 A. This is an e-mail to John Rodefald,
15 who was Barclays, as we mentioned, Operations,
16 and Kevin Caffrey, who is the managing director
17 at Bank of New York in charge of like clearing,
18 custody, tri-party, things like that.
19 And what I was looking to do here was
20 to confirm what Lehman believed that, you know,
21 they transferred as a result of the repo
22 transaction on the 18th. We wanted to
23 reconcile -- we wanted to do a three-way
24 reconciliation. Basically, we wanted Lehman's
25 books to tie out with both Barclays and with

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 Bank of New York so that we could confirm the
3 secured identifiers, the par amounts, and things
4 like that of the transaction.

5 And so the spreadsheet itself attached
6 was my department's collaboration of what we
7 believed we transferred on the 18th, and then
8 the last point here is me reaching out to Kevin
9 to talk about, you know, clearance relationships
10 going forward for the broker-dealer, LBI.

11 **Q. That's point number 4 on the e-mail**
12 **you're talking about?**

13 A. That's point number 4 on the e-mail,
14 yes.

15 **Q. Can you turn to the second page of**
16 **this document?**

17 MR. SHAW: That's the one with the
18 Bates number ending in 9799?

19 MR. HINE: Correct.

20 **Q. That's a very small chart with columns**
21 **A and B, do you see that?**

22 A. Uh-huh.

23 **Q. Now, I think I understand what this**
24 **is, but could you explain to me what you**
25 **understand this chart to be capturing?**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 securities that were transferred were this
3 entire list other than TP cash.

4 **Q. Okay.**

5 A. Because these other two are included
6 in the Fed program. So this was Fed program
7 securities that were Fed wire eligible. That's
8 what that first line is.

9 **Q. What does "Fed wire eligible" mean?**

10 A. Well, Fed wire eligible is a type of
11 security that's transferred on the Federal
12 Reserve's book entry transfer system. So
13 examples are U.S. Treasuries, Fannie Maes, Ginne
14 Maes, collateral types of those classes.

15 Other types of collateral are
16 typically transferred through DTC, which is
17 represented by the participant IDs here, DTC
18 participant IDs.

19 **Q. Just to harken back to our prior**
20 **discussion, this reflects the approximately 42**
21 **billion in securities plus the 7 billion in cash**
22 **that was ultimately transferred under the**
23 **September 18th repo, correct?**

24 A. That's correct.

25 **Q. Now, how were these market values**

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1 HIGHLY CONFIDENTIAL - J. HRASKA

2 A. This chart was my group's attempt to
3 summarize the market value on the collateral in
4 these appropriate buckets just to give people an
5 understanding of the composition of the
6 collateral and market value that we associated
7 with that.

8 So the Fed collateral would be -- the
9 Fed wirable type collateral, as I defined
10 earlier, and then 74 and 636 would have been the
11 positions that came out of the Depository Trust
12 Company.

13 And then what's referred to as TP cash
14 is the 7 billion pure cash that we talked about
15 as well.

16 **Q. Okay. The TP cash is the proceeds**
17 **from the box loan that we talked when earlier?**

18 A. Yes, that's correct.

19 **Q. And when you say "Fed wirable," that**
20 **is the -- that is securities that were**
21 **successfully transferred from the Fed program to**
22 **BONY on Thursday; is that right?**

23 A. No, let me clarify that. Those are
24 the securities that were transferred that were
25 Fed wirable security types because the

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 **determined?**

3 A. I don't know how they were determined.
4 They were provided from what Lehman had in their
5 systems at the time.

6 **Q. So these are Lehman's values?**

7 A. I know those to be Lehman's values.

8 **Q. And I think we might have touched on**
9 **this before, but Bank of New York ascribed its**
10 **own values to those securities?**

11 A. They did, yes.

12 **Q. So am I correct to say that this chart**
13 **and spreadsheet would not include Bank of New**
14 **York valuations, but only included the Lehman**
15 **valuations?**

16 A. That would be correct, yes.

17 **Q. Okay. Now, did you get -- your**
18 **covering e-mail asks I presume Mr. Rodefild and**
19 **Mr. Caffrey to verify the positions. Did they**
20 **in fact try to do that?**

21 A. Yes, we did that. They sent us back
22 files and we reconciled all the positions.

23 **Q. Okay. Let me show you another chart.**
24 **I think it'll relate to the story, but I'm not**
25 **sure.**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Mr. Hraska, I hand you an exhibit**
3 **that's previously been marked as Exhibit 83B,**
4 **which is an e-mail dated Sunday, September 21st.**
5 MR. SHAW: Do you have a copy which is
6 not cut off on the side?
7 MR. HINE: We'll try to locate one.
8 MR. SHAW: He needs one that's
9 complete rather than ...
10 (Document handed.)
11 A. Okay.
12 **Q. Mr. Hraska, have you had a chance to**
13 **look at the document?**
14 A. I have.
15 **Q. Have you ever seen this document**
16 **before?**
17 A. No.
18 **Q. To your knowledge, are the people**
19 **listed in the "to" and "from" portions of the**
20 **e-mail Barclays employees, generally?**
21 A. Primarily, yes.
22 **Q. You'll see in the first -- the first**
23 **bullet point in the text that says, "We should**
24 **book all positions from the Lehman financing**
25 **facility to BCI (approximately 45 billion)**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 like we were talking terms earlier, referred to
3 the \$45 billion in cash. So it's possible that
4 somebody was referring to the cash and not
5 securities here, but I'm speculating on that. I
6 don't really know.
7 **Q. Can you describe for me the**
8 **reconciliation process that took place with**
9 **respect to these securities? Was there a debate**
10 **as to the value assigned to the securities?**
11 MR. SHAW: Objection to form.
12 A. There was --
13 MR. SHAW: And foundation.
14 A. There was -- from an operations
15 perspective, our primary objective was to make
16 sure that the quantities and the Cusips all
17 matched. You know, as we talked about the
18 market values that we knew were based off of
19 Lehman's systems, there was some discussion
20 about the value of the securities.
21 I wasn't privy to the actual
22 discussions. I knew there was going to be a
23 value -- a discussion about value of securities
24 because Bank of New York informed me that they
25 didn't agree with some of the pricing that we

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **securities. See attached files." Do you see**
3 **that?**
4 A. I do see that, yes.
5 **Q. When you had this effort to reconcile**
6 **your position with Barclays and BONY, did you**
7 **ever hear the figure of approximately 45 billion**
8 **used as the value for the securities that were**
9 **in the September 18 repo?**
10 A. No, not specifically 45 billion.
11 **Q. Do you have any knowledge of where**
12 **this figure might have come from?**
13 A. Unfortunately, no. I don't think I'm
14 CC'd on here. I didn't see myself and I don't
15 recognize it.
16 **Q. No, you're not CC'd. I'm just**
17 **wondering, in your discussions between at or**
18 **about, you know, Saturday, Sunday that weekend,**
19 **if you heard any use of a number of about 45**
20 **billion in connection with the securities that**
21 **were listed in your prior exhibit?**
22 MR. SHAW: Objection. Asked and
23 answered.
24 A. I hadn't heard any discussions related
25 to 45 billion securities. People mistakenly,

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 had attached to some of these securities.
3 **Q. And what did they tell you about that?**
4 A. Very generically, they basically said
5 that we're going to have to review these prices,
6 we don't necessarily agree with these, and at
7 that point it kind of went out of my camp,
8 because, again, I don't really deal with the
9 pricing side of it. I just have to make sure
10 the securities make it, the right quantities
11 make it, there's no stock record breaks and all
12 that kind of stuff.
13 **Q. Who deals with the pricing part of it?**
14 A. The pricing part at both Barclays and
15 at Lehman would be handled by the Financial
16 Control folks. So I would say like, you know,
17 in the current organization, I guess Marty Klein
18 and those folks, and at Lehman it would have
19 been Gerry Reilly's organization.
20 **Q. Okay. Is there any, in this**
21 **reconciliation effort that you talked about, is**
22 **there a reconciliation as to price or is it just**
23 **the identifying Cusips and the particular**
24 **securities that were transferred?**
25 A. My reconciliation was purely to

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 securities quantities, that kind of thing. And
3 like I said, I know that the finance teams were
4 going back and forth on the pricing issue, but,
5 unfortunately, I didn't really partake in those
6 discussions.

7 Q. Do you know how -- what price they
8 arrived at at the end?

9 A. I don't, unfortunately.

10 Q. It appears in some documents that the
11 BONY pricing was higher than the prices ascribed
12 to the securities on your -- on the prior
13 exhibit. Do you have any idea why that would be
14 the case?

15 MR. SHAW: Objection to form.

16 A. I don't. It's actually very
17 surprising to me as well, because the initial
18 conversation that I just referenced a few
19 minutes ago was from Bank of New York that we
20 had over-valued a few securities and, therefore,
21 they were concerned about the total market value
22 that we had sent them. So, you know...

23 Q. Do you recall any discussions about
24 writing down the value of securities during this
25 period?

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1 HIGHLY CONFIDENTIAL - J. HRASKA

2 MR. SHAW: Objection to form.

3 A. During -- could I ask a clarification?
4 During which period? During the period at any
5 point in time after the transaction, or during
6 like a period of the week, or what point in
7 time?

8 Q. Let's break it down. Let's talk about
9 this -- during this reconciliation period that
10 you mentioned, which I take it is from Friday,
11 the 19th, through the weekend, correct?

12 A. Okay.

13 Q. So were there any discussions during
14 that period about writing down the value of
15 securities?

16 MR. SHAW: Just so we're clear,
17 because this is a 30(b)(6), are there
18 discussions that he participated in?

19 MR. HINE: That he's aware of.

20 A. I'm aware there were discussions about
21 the values of the securities. As to writing up
22 or down, I wasn't made privy to that.

23 Q. At any time during this week were you
24 privy to any discussions where the possibility
25 of writing down the value of securities was

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 discussed?

3 A. No.

4 Q. So, back to Exhibit 83B, based on your
5 experience, is it fair to assume that this is
6 probably a document generated by Barclays in
7 connection with that reconciliation effort that
8 you were discussing?

9 A. I would assume that's the case, yes.

10 Q. Okay. But you have no specific
11 knowledge about how this document was prepared
12 or --

13 A. I don't, unfortunately, no.

14 Q. Mr. Hraska, I'm handing you a copy of
15 a document marked as Exhibit 84B. If you
16 wouldn't mind taking a moment to review it.
17 Just for the record, the document is
18 Bates-stamped BCI-008149 through 8670.

19 (Document review.)

20 A. Presentation of these is definitely
21 not user-friendly.

22 Q. Forced to print them out for purposes
23 of a deposition.

24 A. I understand that.

25 (Document review.)

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1 HIGHLY CONFIDENTIAL - J. HRASKA

2 A. Okay.

3 Q. Have you had a chance to look at the
4 document?

5 A. I have.

6 Q. Have you ever seen this document
7 before?

8 A. No. Well, actually, I have seen this
9 in the preparation to my -- this portion of the
10 deposition.

11 Q. Okay.

12 A. I actually reviewed some files, and I
13 believe this is one of the ones on that list.
14 I'm not a hundred percent sure, but I think it
15 is.

16 Q. Okay. Other than your preparation for
17 this deposition, do you recall seeing this
18 document at all?

19 A. No.

20 Q. I noticed they misspelled your name on
21 the front. Is that a possible reason why you
22 might have not received this document?

23 A. Yeah, because it wouldn't have gone to
24 my e-mail, if that's the case.

25 Q. Would it be fair to say you have no

<p style="text-align: right;">Page 126</p> <p>1 HIGHLY CONFIDENTIAL - J. HRASKA 2 familiarity with how this document was prepared? 3 A. That's true. 4 Q. Okay. And the covering e-mail says -- 5 it's an e-mail from Mr. Yang, which says, "I've 6 attached a schedule produced by Barclays' Ops of 7 the collateral currently held at BONY under the 8 repo financing provided to Lehman." It 9 continues to say that -- it says "a total BONY 10 market value of approximately 45 billion." You 11 see that? 12 A. I do, yes. 13 Q. Is it probably safe to assume that 14 this was prepared in connection with your 15 reconciliation effort between Lehman and Bank of 16 New York and Barclays as to the securities that 17 were involved in the September 18 repo? 18 MR. SHAW: Objection. Foundation. 19 Calls for speculation. 20 A. Yeah, I guess it's fair to assume 21 then. 22 Q. Again, do you see the number of 45 23 billion? 24 A. Uh-huh. 25 Q. Does this refresh your recollection at</p>	<p style="text-align: right;">Page 127</p> <p>1 HIGHLY CONFIDENTIAL - J. HRASKA 2 all or does this remind you of anything in 3 connection with how Bank of New York valued this 4 pool of securities? 5 MR. SHAW: Objection to form. 6 A. Unfortunately, not. I mean, I -- the 7 only 45 billion that I was aware of was the 8 actual principal value, and I don't remember 9 assets being referred to as 45 billion in any of 10 the conversations that I had. 11 Q. Okay. And when you say the principal 12 value, you're talking about the amount of -- 13 A. Cash extended on the transaction. 14 Q. Okay. So is it correct to say that in 15 this reconciliation process that you discussed 16 you don't recall anyone ever mentioning a value 17 of this pool of securities being about \$45 18 billion? 19 MR. SHAW: Asked and answered. 20 A. That's correct. 21 Q. So, just to complete the record, you 22 have no way of explaining how this value in this 23 document would differ with the \$42.9 billion 24 number in Exhibit -- in the prior exhibit that 25 you looked at; is that right?</p>
<p style="text-align: right;">Page 128</p> <p>1 HIGHLY CONFIDENTIAL - J. HRASKA 2 MR. SHAW: Prior exhibit, are you 3 referring to 139B? 4 Q. 139B. Let me rephrase the question. 5 A. Okay. 6 Q. In Exhibit 139B -- 7 A. Right, that's my document. 8 Q. -- which is the document you prepared, 9 has a value of 42.9 billion, approximately? 10 A. Right. 11 Q. This one seems to ascribe a value of 12 45 billion. 13 A. Okay. 14 Q. Do you have any way to -- any 15 explanation for why they would come to different 16 values? 17 MR. SHAW: Objection. Calls for 18 speculation. 19 A. My opinion is that the Lehman pricing 20 was different than the Bank of New York pricing. 21 Q. In what way? 22 A. Well, in the tune of \$3 billion. I 23 mean -- I mean, I'm not trying to be sarcastic. 24 I mean, you know, to the extent that they're 25 valuing a pool of collateral at 45 and we're</p>	<p style="text-align: right;">Page 129</p> <p>1 HIGHLY CONFIDENTIAL - J. HRASKA 2 valuing it at 42, the average price on a basket 3 basis would mean that they valued the basket 4 higher. I'm sure there were multiple assets 5 where there were pricing differentials, but as 6 an aggregate, it appears that they gave higher 7 values to most securities. 8 Q. Let me ask you this. In this 9 reconciliation -- well, scratch that. The 10 difference could arise, could it not, either 11 from how you value individual securities or 12 whether you have the same pool of securities 13 that you're looking at, correct? 14 A. That's correct. I thought the -- yes, 15 okay. 16 Q. Well, my question is, in this 17 reconciliation process, did it end up that there 18 was a vast difference in the pool of securities 19 that were being considered? 20 A. That's a different question. 21 Q. Between the Barclays folks and your 22 list? 23 A. From a security delivery perspective, 24 we tied out completely to the number of 25 securities and the security identifiers that we</p>

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 delivered versus what Bank of New York and
3 Barclays knew.
4 **Q. When you say "tied out"?**
5 A. "Tied out," meaning we reconciled that
6 there were no discrepancies.
7 **Q. So the difference in any values would**
8 **have to be in the method of pricing, then,**
9 **correct?**
10 A. Yes, the one thing, we tied out -- the
11 tieout process took a few days, so I don't know
12 whether on September 22 we were completely tied
13 out, but the initial tieout itself, though,
14 there were minimal, minimal discrepancies. I
15 would say, you know, probably less than a
16 hundred.
17 **Q. So would you agree with me, then, that**
18 **if there is a difference in pricing, it would**
19 **probably be the result of how you price**
20 **individual securities instead of --**
21 A. And not so much --
22 **Q. -- the composition of the pool?**
23 MR. SHAW: Objection to form. You
24 need to let him finish his question and then
25 let me object so we have a clean record.

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 **Q. You'll see the -- first of all, have**
3 **you ever seen this document before?**
4 A. In preparation for the deposition,
5 yes, but other than that, no.
6 **Q. Okay. You'll see on the cover page**
7 **that this is dated Friday, September 26?**
8 A. Uh-huh.
9 **Q. And at the bottom of the covering**
10 **e-mail it mentions Schedule A, you see that?**
11 A. Okay.
12 **Q. It says here, "Our guys are still**
13 **running the reconciliation to confirm that there**
14 **are no errors in the Barclays list." Do you see**
15 **that?**
16 A. Uh-huh.
17 **Q. And then if you turn to the last tab**
18 **in the document, it's a lengthy schedule which**
19 **concludes with a number, a figure on the last**
20 **page --**
21 A. The last page?
22 **Q. -- of 44, of approximately \$44.1**
23 **billion, do you see that?**
24 A. I do, yes.
25 **Q. And so my question is, do you have any**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 A. So then could you repeat the question?
3 (Record read.)
4 MR. SHAW: Objection to form.
5 A. Yes.
6 **Q. Okay.**
7 (Exhibit 140B, a document bearing
8 Bates Nos. BCI-CG00052538 through 53173,
9 marked for identification, as of this date.)
10 **Q. Mr. Hraska, I'm handing you a document**
11 **that's been marked as Exhibit 140B.**
12 A. Okay.
13 **Q. Again, another voluminous schedule**
14 **with Bates Nos. BCI-CG-00052538 through 53173.**
15 **And again, it's a voluminous schedule, but take**
16 **your time to review it.**
17 A. Uh-huh.
18 **Q. I was really going to ask you about**
19 **the, primarily, the first and last page.**
20 A. Okay.
21 (Document review.)
22 A. Okay.
23 **Q. Mr. Hraska, have you had a chance to**
24 **look at it briefly?**
25 A. I have, yes.

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 **understanding of why the value of this schedule**
3 **of the securities embodied in the schedule is**
4 **now at this point in time at \$44.1 billion as**
5 **opposed to the 42.9 that we saw earlier?**
6 A. No is the short answer. We talked
7 earlier about pricing differentials. So, to me,
8 I don't know whether this is a Lehman-produced
9 or Barclays produced it. It doesn't appear to
10 me to be a Lehman-produced, so ...
11 **Q. When you say it doesn't appear to be a**
12 **Lehman-produced document, are you referring to**
13 **the last tab, which is purportedly Schedule A?**
14 A. Well, this is an e-mail I wasn't
15 included on.
16 **Q. Right.**
17 A. So it doesn't look like the format of
18 any of the files that I produced, so that's why
19 I'm assuming -- well, me being Lehman at the
20 time, Lehman-produced.
21 **Q. Okay. Do you recall the figure \$44.1**
22 **billion ever being used in connection with the**
23 **value of the securities on Schedule A?**
24 A. No.
25 **Q. And I think you said earlier, but I**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 just want to get a clarification, that other
3 folks, if there was a reconciliation as to
4 value, it was being done by other people other
5 than yourself?
6 A. The two finance organizations.
7 Q. And I think you gave me names, but I
8 forgot them. Is that Mr. Reilly?
9 A. Mr. Reilly's organization, right, and
10 then I know it's Marty Klein now. I'm not sure
11 who was head -- if it was Marty. I think Marty
12 Klein was legacy Lehman, so I'm not sure who was
13 in the finance organization at the time. I
14 think you had Jason Yang or some of those guys.
15 Yeah, Jason Yang was involved.
16 Q. So am I correct in assuming that you
17 really don't have any knowledge as to the -- how
18 this \$44.1 billion figure was arrived at?
19 A. That's correct.
20 Q. Okay.
21 (Exhibit 141B, a document bearing
22 Bates Nos. BCI-CG00055192 through 55629,
23 marked for identification, as of this date.)
24 Q. Mr. Hraska, I'm handing you a copy of
25 a document marked as Exhibit 142B.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 Q. Okay. Does this look like a schedule
3 that was prepared by Lehman or Barclays?
4 A. It does not look like it's a schedule
5 that I prepared, so ...
6 Q. Okay. You'll see on the cover page it
7 mentions the fact that this includes two
8 attachments, one of which is Schedule A and one
9 a Schedule B, do you see that?
10 A. I do.
11 MR. SHAW: Objection.
12 Mischaracterizes the document.
13 Q. Okay.
14 MR. SHAW: Schedule B, Part 1.
15 MR. HINE: Okay.
16 Q. Mr. Hraska, what is Schedule B, Part
17 1?
18 A. I honestly don't know.
19 Q. Have you ever seen Schedule B broken
20 into Parts 1 or 2?
21 A. No.
22 Q. If you could turn to the page we had
23 been discussing, which is the one ending in
24 Bates stamp 55519, you'll see this comes to a
25 \$42.9 billion figure, correct?

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. Mine is marked 141. Do I have the
3 wrong one?
4 Q. 141B, I apologize. It's Bates-stamped
5 BCI-CG-0055192 through 55629. Please take a
6 minute to review it. If it helps in your
7 review, my questions are going to involve the
8 cover page and the page marked 55519, which is a
9 little more than halfway through the document.
10 (Document review.)
11 A. Could you please repeat the middle
12 page you said you wanted me to read?
13 Q. The page ending in 55519.
14 MR. SHAW: You mean 55319?
15 MR. HINE: No, 55519.
16 A. Okay.
17 Q. So CG55519.
18 A. Okay.
19 Q. Have you had a chance to look at the
20 document briefly?
21 A. I have, yes.
22 Q. Have you ever seen this document
23 before?
24 A. Again, not before the preparation for
25 this deposition.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. That's correct.
3 Q. Now, my question is along the lines of
4 the prior questions: Do you have any
5 explanation of how, after a few weeks of
6 discussion, the figure appears to have gotten
7 back to \$42.9 billion after there were previous
8 iterations where the numbers of 45 and 44
9 billion bandied about?
10 A. Well, what I can tell you is that 42.9
11 is the number that I recognize, which is I
12 believe we confirmed in the previous documents.
13 So this number to me is familiar, and I would
14 agree that that was what I knew the value to be.
15 I don't know how it got back to that.
16 I don't know -- this is just -- because it's a
17 large document. It could be that somewhere else
18 it's referenced still 44. I haven't gone
19 through every page. But I can tell you that
20 this number is the number that I recognized and
21 I maintain to recognize as the value of what we
22 transferred.
23 Q. So in your -- again, I'm not trying to
24 trick you.
25 A. No. No.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Q. I know you're not -- you didn't**
3 **recognize some of the other numbers we just**
4 **talked about. So, in your mind, approximately**
5 **42.9 billion is the value of the securities on**
6 **Schedule A, correct?**
7 MR. SHAW: Objection.
8 Mischaracterizes. You can --
9 A. It was the value that I knew at the
10 time of transfer, and whether or not that value
11 changed or was subsequently discussed, I don't
12 know, but it was the value that I knew at the
13 time of transfer.
14 **Q. Okay. And you weren't involved in any**
15 **discussions about other values with respect to**
16 **that schedule, correct?**
17 A. No.
18 **Q. And do you think that's the value in**
19 **your mind of the final version of Schedule A?**
20 MR. SHAW: Objection to form.
21 A. Again, I don't know if it was the
22 final version. I know it was the value when I
23 transferred it.
24 **Q. Maybe that was a bad question. Did**
25 **Schedule A change in composition, to your**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **preparing Schedule B, correct?**
3 A. I was involved in giving a list of
4 unencumbered collateral, which I understand some
5 of which became Schedule B.
6 **Q. But you're not familiar with the terms**
7 **Part 1 and Part 2 of Schedule B; is that right?**
8 A. No.
9 **Q. Are you familiar with any kind of**
10 **discussions about the valuation of the**
11 **securities that are on Schedule B?**
12 A. Well, there was the valuation that I
13 knew to have transferred, which is 1.4 billion.
14 I don't know what the ultimate valuation of that
15 or the -- I don't know what the final version of
16 that list was or the market value associated
17 with that, so ...
18 **Q. Do you recall any discussions about**
19 **any discrepancies in the valuation of the**
20 **securities that comprised Schedule B?**
21 A. I remember there being discussions in
22 valuation of those securities, discrepancies in
23 general. I don't know whether they were
24 specifically Schedule B or if they were just
25 purely related to the repo we were discussing

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **knowledge, from the original chart that we**
3 **looked at?**
4 A. In composition of securities? The
5 number of securities and things like that? The
6 schedule did not change. The pricing may have
7 changed.
8 **Q. Okay. But you don't have any**
9 **knowledge of whether the pricing changed?**
10 A. Other than the knowledge of looking at
11 these documents here, there's obviously a
12 discrepancy, but no upfront knowledge that it
13 changed.
14 **Q. And you don't have any knowledge of**
15 **the value of any securities on Schedule A being**
16 **written down in connection with this**
17 **reconciliation process?**
18 A. No. You asked that earlier, right?
19 No.
20 **Q. Do you recall what the par value was**
21 **for the security listed on Schedule A?**
22 A. I don't, no.
23 **Q. Okay. That's all I have with that**
24 **document.**
25 **Mr. Hraska, you were involved in**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 earlier, so ...
3 **Q. Well, I guess I'm just trying to --**
4 **was there a reconciliation process that went on**
5 **with respect to the securities in Schedule B?**
6 A. There was a -- there was a
7 reconciliation process from the standpoint of we
8 were asked what securities were delivered, which
9 we provided to the Finance folks, and the
10 Finance folks did a spreadsheet compared to what
11 they knew to be Schedule B and at one point told
12 us something along the lines of -- I don't
13 remember whether it was 800 Cusips or 800
14 million in value, but there was a number of 800,
15 which whatever was the discrepancy on that. I
16 believe it was Cusips.
17 **Q. 800 Cusips?**
18 A. 800 Cusips or security identifiers
19 which weren't delivered.
20 **Q. And was that reconciled in some way?**
21 MR. SHAW: Objection to form.
22 A. The Cusips in question were looked at
23 by the Clearance folks and my teams as to
24 whether they were delivered or whether they
25 could be delivered, and we verified that in fact

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 they were not delivered.
3 **Q. And was there any effort to then**
4 **deliver them later?**
5 A. There was an effort to see if they
6 were available for delivery, and in most
7 instances, they were actually not available for
8 delivery.
9 **Q. So was any further action taken on**
10 **that?**
11 A. For that -- for the particular
12 securities on that list, no.
13 **Q. Were substitute securities delivered**
14 **instead?**
15 A. Substitute securities were not
16 delivered.
17 Let me just think about that. Yeah,
18 no, there was no substitute securities delivered
19 after that, no.
20 **Q. Was that possibility considered?**
21 MR. SHAW: Objection to form,
22 foundation.
23 A. That possibility was considered.
24 There was conversations that I had with the
25 Treasury folks, who were prior legacy Lehman,

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 **transferred?**
3 MR. SHAW: Objection to form and
4 foundation.
5 A. The clearance boxes in which they
6 reside are presently under administration. So,
7 as Barclays employees, we wouldn't have the
8 ability to go and make those transfers without
9 the administration's approval.
10 **Q. So does Barclays thinks it's entitled**
11 **to these securities?**
12 A. I'm not a hundred percent sure what
13 Barclays thinks. I was asked to go find
14 something that was unencumbered in the Lehman
15 boxes, which I did. I would speculate that
16 Barclays would think they're entitled if they
17 asked me to do that exercise.
18 **Q. Who would know at Barclays whether**
19 **they think they're entitled to those securities?**
20 MR. SHAW: Objection to form,
21 foundation.
22 A. I would start with the Treasury team
23 and possibly the Legal team.
24 **Q. And who is the Treasury team to which**
25 **you are referring?**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 but now, as a result of the timing, were now
3 employed by Barclays, so Robert Azerad and those
4 folks, as to whether or not there were other
5 securities which were unencumbered that could be
6 substituted for the securities that could not be
7 delivered on the original Schedule B.
8 **Q. And what was the result of that**
9 **discussion?**
10 A. The result of that discussion was is
11 that we went through yet again another
12 identification process to try to locate
13 unencumbered securities that were available or
14 that could be made available to transfer. At
15 that point in time, by then, we no longer had
16 capability to just go ahead and make a transfer.
17 It would have been subject to approval by
18 Deloitte and a few other folks before anything
19 could be done.
20 **Q. So where does that effort now stand?**
21 A. The effort basically concluded with a
22 subsequent set of lists that, you know, we feel
23 are securities that are eligible to be
24 transferred to Barclays.
25 **Q. And why have they not been**

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1 HIGHLY CONFIDENTIAL - J. HRASKA
2 A. Robert Azerad would be the point
3 person that I would use, or Alan Kaplan in
4 Legal.
5 **Q. Can you tell me an approximate value**
6 **for those securities that are -- that you**
7 **identified that were not able to be transferred?**
8 A. I would say 6 to 7 hundred million.
9 **Q. And that's based on Lehman valuations?**
10 A. Based on Lehman valuations at a
11 particular point in time, which was November 17
12 of 2008.
13 **Q. Just so I have a little clarity, this**
14 **effort to identify these additional securities**
15 **took place after you transferred over to**
16 **Barclays?**
17 A. That's correct.
18 **Q. Did it start during the weekend of**
19 **September 20th at all?**
20 A. This particular exercise, no. It
21 started I would say early October.
22 **Q. Okay. We had -- in discussing**
23 **Schedule A, I think you said there was a**
24 **reconciliation effort, but to the extent there**
25 **was an effort to reconcile the values, that's**

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HIGHLY CONFIDENTIAL - J. HRASKA
really not something that fell under your
purview; is that right?

A. That's correct.

**Q. Now, is that the same case for
reconciliation efforts related to Schedule B?**

A. With regards to the valuation?

Q. Yes.

A. Yes.

**Q. So who would I ask about that if I
wanted to learn about efforts to reconcile
values related to Schedule B?**

A. Robert Azerad would be your best
source.

**Q. Am I correct to say that you were, to
the extent you were involved in reconciling
anything with respect to Schedule B, it would be
related to locating securities and Cusips
numbers and identifying what would comprise the
pool of Schedule B; is that right?**

A. Yes, we reconciled what was given
to -- well, we were given an exception list of
what was, you know, what we believe was
delivered versus what was on the original
Schedule B, and we were asked to verify that

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HIGHLY CONFIDENTIAL - J. HRASKA
those securities were in fact delivered.

Q. And were they?

A. They were not. Well, securities that
were delivered were delivered, but the
securities that were given as an exception were
not delivered.

**Q. And that's the 800 Cusips you
mentioned?**

A. That's approximately 800, somewhere in
that number.

MR. SHAW: Does it make sense to take
a lunch break sometime soon?

MR. HINE: Let me just finish up on
this.

**Q. Other than those 800 Cusips that you
mentioned, were there any other discrepancies
that you came across in your efforts to
reconcile the transfer of securities under
Schedule B?**

A. Under Schedule B, no.

**Q. So am I correct to say -- I think
previously you used the phrase "tie-in." Did
your -- Lehman's records of the transfers for
Schedule B securities tie in with the Barclays**

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HIGHLY CONFIDENTIAL - J. HRASKA
records other than this 800 Cusips that you
mentioned?

A. Yes.

MR. HINE: Why don't we break for
lunch.

THE WITNESS: Okay. That would be
great. Thanks.

(Recess; Time noted: 12:34 P.M.)

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HIGHLY CONFIDENTIAL - J. HRASKA
AFTERNOON SESSION
(Time Noted: 1:19 P.M.)

JAMES HRASKA, resumed and
testified further as follows:

EXAMINATION BY (Cont'd.)

MR. HINE:

Q. Good afternoon, Mr. Hraska.

A. Good afternoon.

**Q. I just had a couple of follow-up
questions with some of the schedules we talked
about. Just look briefly at 84B. That's the
one where your name is misspelled on the front
page. You see that?**

A. Okay. That's correct.

**Q. I think I see some e-mails that
suggest you did eventually get this document; is
that right?**

A. I may have. I, honestly, I don't
know.

Q. You don't recall?

A. No.

**Q. Okay. That's fine. That's all I had
on this one. I just wanted to clarify that one
issue.**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **If we look at Exhibit 141B, Mr.**
3 **Tonucci's name at the top. You see that?**
4 A. Yes.
5 **Q. I think you testified that you didn't**
6 **recognize the format of some of the schedules we**
7 **were talking about, but I just wanted to ask you**
8 **a question. If you look at the front of the**
9 **e-mail on the first page, it has attachments**
10 **with titles, look likes there's titles of**
11 **attachments. You see that?**
12 A. It says -- are you referring to Friday
13 transfers, BONY records agreed?
14 **Q. Yes.**
15 A. Okay.
16 **Q. Are those titles, do those look like**
17 **titles that would be prepared by Lehman?**
18 A. They weren't titles that would have
19 been prepared by me. I don't know if they were
20 prepared by anybody else at Lehman.
21 **Q. Well, do you know if Mr. Tonucci's**
22 **crew or anyone else at Lehman was preparing**
23 **schedules in this reconciliation effort that we**
24 **discussed earlier?**
25 MR. SHAW: Objection to form.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **Q. Other than the schedules that's in**
3 **139B, did you prepare any other schedules with**
4 **respect to this reconciliation effort that we**
5 **talked about?**
6 A. Schedules, no. I mean, we worked on
7 the differences, but there were no other like
8 schedules. This is what we knew to have taken
9 place or transferred on the night of the 18th.
10 **Q. Did you prepare any schedules relating**
11 **to what we've been calling the Schedule B**
12 **assets?**
13 MR. SHAW: Objection. Asked and
14 answered.
15 A. Yeah, I -- I provided information to
16 Schedule B. I didn't prepare Schedule B.
17 **Q. Okay. So, referring back to the cover**
18 **page of 140B, Exhibit 140B, do you know one way**
19 **or the other whether the schedules that are**
20 **referenced by title on that page were prepared**
21 **by Lehman or Barclays?**
22 A. Definitively, no.
23 **Q. Generally?**
24 A. Generally, these participant IDs are
25 Lehman participant IDs. So it would make sense

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. No. No, I don't know.
3 **Q. You don't know one way or the other?**
4 A. Yeah.
5 **Q. Okay. So do those titles -- for**
6 **example, it says, "Corrected Thursday transfers**
7 **to Barclays. BONY agreed." Is that a file that**
8 **you're familiar with?**
9 A. It's not, no.
10 **Q. How about the first title, "Friday**
11 **Transfers. BONY records agreed," do you have**
12 **any recollection being familiar with that title?**
13 A. No.
14 **Q. Okay. If you look at Exhibit 140B,**
15 **same question: If you look in the attachments**
16 **it has some titles to various attachments, and**
17 **my question is are you familiar with any of**
18 **those attachments or the titles to those**
19 **attachments?**
20 A. I recognize terms in the title, but I
21 don't recall if those were particular titles
22 specifically that I was familiar with.
23 **Q. Did you prepare any other schedules**
24 **other than the one that we first looked at?**
25 MR. SPENCER: 139B.

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 someone from Lehman had prepared them.
3 **Q. Okay.**
4 A. But I don't know who.
5 **Q. Okay. Not you, I take it?**
6 A. It was not me.
7 **Q. Do you think that people in Mr.**
8 **Tonucci's shop would have been preparing some**
9 **kind of schedules in connection with this**
10 **reconciliation effort?**
11 MR. SHAW: Objection. Calls for
12 speculation.
13 A. It would seem reasonable, but I don't
14 know --
15 **Q. Okay.**
16 A. -- specifically.
17 **Q. Back to the schedule that you did in**
18 **fact produce.**
19 A. 139, something?
20 **Q. 139B. The values that are contained**
21 **in that schedule, can you describe for me where**
22 **you got them from within the Lehman system?**
23 A. They were taken from a system called
24 GFS.
25 **Q. And how do you find them within the**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **GFS system?**
3 A. They were extracted out of GFS. They
4 were existing prices that were -- that were I
5 guess downloaded into a spreadsheet.
6 **Q. And where were they downloaded from?**
7 A. From GFS.
8 **Q. Okay. But where does GFS get them, do**
9 **you know? I mean, I'm trying to find out what's**
10 **the origin of those prices. I understand you**
11 **downloaded them from the GFS system.**
12 A. Right.
13 **Q. Where does the GFS system get those**
14 **prices?**
15 A. I can tell you generically it gets
16 pricing -- it gets its pricing from various
17 vendor sources and there's a hierarchy of vendor
18 selection.
19 **Q. Uh-huh.**
20 A. And to the extent there's no price,
21 typically the Product Control organization would
22 talk to traders to get traders' marks.
23 **Q. Okay. So where there's no market**
24 **information, the traders themselves can do -- do**
25 **they use a model of some sort?**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 pricing from that date, if it was available.
3 **Q. But Nancy Denig is the one who**
4 **actually did that downloading to prepare this**
5 **spreadsheet?**
6 A. She obtained the prices. I don't know
7 whether it was her that downloaded it or a
8 technologist that provided it or -- but she
9 obtained the pricing for it.
10 **Q. Did any of those values come from any**
11 **source other than the GFS system, do you know?**
12 A. That I wouldn't know. I mean, what I
13 know is that we got it from GFS. Other than the
14 methodology of how GFS got them other than what
15 I have described, I mean, I don't really know.
16 **Q. Okay. Very good.**
17 **Mr. Hraska, you were talking about the**
18 **800 Cusips that you identified but never made it**
19 **to Barclays?**
20 A. Uh-huh.
21 **Q. Remember that testimony?**
22 A. Uh-huh.
23 MR. SHAW: You need to say yes or no.
24 A. I'm sorry. Yes.
25 **Q. Where were those Cusips residing**

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 A. How they would determine the marks I
3 don't know, unfortunately.
4 **Q. Okay. Any other sources of data that**
5 **would go into that pricing?**
6 A. From my prospective, no.
7 **Q. When you actually prepared that**
8 **spreadsheet, how did you instruct the GFS system**
9 **to give you those prices?**
10 A. Well, I -- actually, the spreadsheet
11 itself was created by somebody who works for me,
12 which is Nancy Denig.
13 **Q. Okay.**
14 A. And I know the methodology in how she
15 got the prices, but if you're asking me
16 specifically how did I mechanically pull the
17 prices, I don't know, because unfortunately --
18 **Q. She would know?**
19 A. Yeah.
20 **Q. I guess I'm trying to understand, if I**
21 **wanted to recreate those prices, how would I go**
22 **about doing it if I had access to the GFS**
23 **system, do you know?**
24 A. You would look to the data from that
25 specific date and you would want to download the

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1 **HIGHLY CONFIDENTIAL - J. HRASKA**
2 **before you identified them?**
3 A. Could you be more specific?
4 **Q. Well, when did you identify the 800**
5 **Cusips?**
6 MR. SHAW: Objection to form.
7 A. The 800 Cusips were not actually
8 identified by me. They were identified by the
9 Finance organization as Cusips which were on
10 Schedule B but were not on the list of
11 securities that we had transferred over to
12 Barclays.
13 **Q. So where are those Cusips now?**
14 A. From a location perspective or a --
15 **Q. Well, where are those securities now?**
16 A. The securities themselves? They would
17 be still in Lehman clearance boxes.
18 **Q. Okay. Do you know which boxes or --**
19 A. Well, various boxes.
20 **Q. Okay. You don't know specific --**
21 **well, let me ask you this way: Is there a list**
22 **somewhere of these 800 Cusips?**
23 A. Well, the list of the 800 Cusips is
24 the list. I'm sorry, I'm not --
25 **Q. Is there a file in Barclays that has a**